

THE PARLIAMENT OF FRANCE

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OF
FRANCE

by

D. W. S. LIDDERDALE

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INTRODUCTION

IT IS natural that during its first years, a new regime should be subjected to criticism, even if the latter be carried to excess. The Fourth Republic is no exception to this rule. But it is precisely in such a situation that one should remember the British precept: "Wait and see". So long as tradition has not, so to speak, made its imprint on the letter of the law, it is futile—as the working of the Constitution of 1875 has clearly shown—to judge a political system only by the texts in which it is given legal definition.

Mr. Lidderdale's work, which, when read by the friends of France in England, cannot but exercise a favourable influence on Franco-British understanding, has the great merit of laying stress on French parliamentary tradition. The psychology and the habits of the French deputy are indeed as important as rules of procedure, however necessary the latter may be. They are even more important. One can safely foretell that any future constitutional reform will be significant and effective only to the extent that it conforms to the deeper realities of political custom.

Hence I do not feel that I am mistaken in trusting to time to play its part. Certain tendencies, in appearance hostile to present parliamentary practice, are, at bottom, but expressions of impatience, and the need for the exercise of control by an elected Parliament is a fundamental axiom which no Frenchman will ever reject.

That is why I believe that to describe and to explain the exact working of our parliamentary system is to help and to defend us, for we like to think that we stand to gain by being better known. Mr. Lidderdale's work has, therefore, a strong claim to the sympathy of the old French Parliamentarian who signs these lines, and its author to his gratitude.

EDOUARD HERRIOT,

Mayor of Lyons,

President of the National Assembly.

AUTHOR'S PREFACE

THE PURPOSE of this book is to describe the rules and customs according to which the Parliament of the Fourth French Republic is organised and conducts its business. The code of procedure which they make up was already firmly established in the Chambers of the Third Republic, and its main principles have long been widely known to many Frenchmen other than the few who actually take part in the proceedings of Parliament. Its influence, however, has spread much further than the country of its origin. Just as British procedure is the model on which the various legislatures in the countries of the Commonwealth have based their methods of work, so French procedure has provided the archetype for the procedures of a number of the parliaments of continental Western Europe and for that of Egypt, as well as for the many local assemblies of the French Union. There may, in fact, be said to be a French order of procedure, just as there is a British order.

These two orders of procedure are widely different. When the procedural experts of continental Western European parliaments meet they find that they are talking the same technical language, and readily understand one another's problems. With their British counterparts, on the other hand, they have little technical experience in common. Yet at the present time there is daily collaboration, on a scale never known before, between Great Britain and the parliamentary democracies of Western Europe; while the Consultative Assembly of the Council of Europe, which at the time of writing has recently concluded its second meeting, brings together in one deliberative body politicians accustomed some to the British, some to the French order of procedure. The Rules of Procedure used by that Assembly are largely French in form, though influenced by British procedure in certain respects. It may therefore be useful at the present moment to give to English students of parliamentary institutions some account of the highly developed and extensive body of procedure used by the Parliament of France.

To judge this procedure truly, it is essential clearly to recognise the nature of the task which it has to perform. The balance of forces in the daily parliamentary struggle is and has long been very different in the French First Chamber from

that to which we are accustomed in the House of Commons. A British Government normally enjoys within that House the position both of a collaborator and of a leader. In ordinary circumstances it is assured of a majority, and controls the greater part of the time of the House—entrusted to it by the House itself. In France, on the other hand, the Government is traditionally an interloper in the Chambers, and a weak interloper at that. It must negotiate frequent compromises to keep the support of a majority, and it has no direct control of the arrangement of business. At the same time, no such thing exists as an official Opposition. In the present legislature of the National Assembly it happens that one large party is to some extent playing the part of a permanent Opposition, and this fact has re-acted so as slightly to strengthen the Government's position. But, as daily events in that Chamber show, the traditional relationship of Government and Legislature in France is unlikely to be altered quickly or easily.¹ In the first two chapters of this book a summary account is given of the main historical, constitutional and political factors which have shaped it.

The nature of this relationship influences to varying degrees all proceedings in the French Chambers and has affected all branches of procedure. In particular, it has produced rules which permit either Chamber to arrange and re-arrange its own time-table with remarkable flexibility—"always to retain control of its Orders of the Day" (*"rester toujours maîtresse de son ordre du jour"*), in the traditional phrase. It has left the private Deputy with many more opportunities for initiating legislative and other business than are possessed by a Private Member in the House of Commons, and has influenced the manner in which legislation is considered. It accounts for the extremely elaborate—perhaps over-elaborate—way in which the necessary annual financial legislation is dealt with. Finally it is in part at least responsible for that most characteristic instrument of French procedure, the system of Permanent Committees, which perform in each Chamber many tasks associated in this country with both the Government and the Opposition. It is also in some part because of the Chambers' suspicion of the Government, and their jealousy of their own independence, that they have kept their Presidents in such a comparatively weak position.

A general account of the development and nature of French procedure is given in Chapter III. As will be seen, this is

¹ See below, pp. 35-6.

today to a great extent the same in both Chambers. The various accounts given in Chapters IV to X, though they primarily describe the methods of the National Assembly, are largely applicable to the Council of the Republic also. Chapter IV is devoted to matters concerning individual Deputies as such—their role in the Chamber, how they are elected and the privileges they enjoy. Chapter V describes the organisation, disciplinary and material, and the administration of the Assembly and Chapter VI its general rules of debate. Chapter VII explains the working of the system of Permanent Committees. Chapters VIII, IX and X describe the methods used by the Assembly for performing the three main functions of a parliamentary body—legislation, guardianship of the national finance and control of the administration of the country in general. Chapter XI describes those branches of the procedure of the Council of the Republic which differ from that of the National Assembly; in all other respects the procedures of the two Chambers may be taken to be the same.

Certain important changes in the procedure of the National Assembly have been made too late for a description of them to have been incorporated in the relevant sections of the book. A summary of them has therefore been given in the Addendum. It is preceded there by a short note on a proposal for revision of the Constitution which, at the time of writing, is still in the earlier stages of consideration.

A glossary of some French parliamentary terms will be found on pages 275-285

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ABBREVIATIONS

The following abbreviations are used throughout the book:

Const	=Constitution of the Fourth Republic
S.O.	=Standing Order(s) of the National Assembly
S.O. (C.R.)	=Standing Order(s) of the Council of the Republic
G.I	=General Instruction of the Bureau of the National Assembly (see p. 73)
G.I (C.R.)	=General Instruction of the Bureau of the Council of the Republic
V.R	=Verbatim Report of the National Assembly.
V.R. (C.R.)	=Verbatim Report of the Council of the Republic
<i>Note</i> —In references to the Verbatim Reports, the date given in each case is that on which the sitting concerned began (not the date on which the Report was issued)	

Chapter One

THE HISTORICAL BACKGROUND

I THE STATES-GENERAL

1. The States-General before 1789

THE ORIGINS of French Parliamentary procedure are to be found almost entirely in the proceedings of the successive national representative bodies which have played their varying parts in the government of France since that great turning point in French and European history, the year 1789. Earlier assemblies contributed to it hardly at all. It is not intended here to try to explain the various factors—historical, geographical, racial—which made the constitutional development of France before 1789 so very different from that of our own country. Some indication, however, of the extent of that difference must be given in order to show why it was that the constitution-makers of 1789 and the following years had so little native practical experience to guide them.

The institution which Louis XVI summoned to meet in 1789, and which had up to then constituted the national parliament of France, in so far as such a thing existed, was known as the States-General (*les Etats-Généraux*). This term still meant, as it had for some 400 years, an assembly of the three Orders, chosen throughout the country. These three Orders (*Ordres*) were the three classes into which in medieval France those members of the nation who had any part in its government had naturally fallen. The first two Orders were the privileged classes of the Clergy and the Nobility; the third contained all who did not belong to either of these two. The word “*état*”, like the English words “state” or “estate”, was formerly used in the sense of “class” or “order”. The term “Third State” (“*Tiers État*”) did not come into general use as the title of the third Order till the eighteenth century.¹

The first meeting of the States-General (though that term was not then yet in use) is generally considered to have been

¹ In certain parts of France local assemblies of the representatives of the three Orders were also held from the fourteenth century on, and possibly earlier

the assembly held by King Philip IV at Paris on 10th April 1302. Meetings of their leading subjects had been held by French Kings before that date; but this was the first occasion on which an attempt was made, through a regular system of summoning, to gather an assembly representative of all the more important elements of the nation, including the leading commoners in the towns. The States-General of 1302 thus bore some resemblance to the Model Parliament which Edward I had held in England seven years before. The subsequent development in the two countries was, however, very different. In England, Parliament met in a hundred and ninety-eight out of the three hundred and twenty years between 1295 and 1614; and soon after the later date began the great constitutional struggle between Parliament and the Crown, from which Parliament emerged victorious. In France, however, in the nearly equal period between 1302 and 1614-15, less than forty-two years saw full meetings of the States-General. Moreover, when, on 24th February, 1614-15, the royal administrators locked the door of their meeting place upon the nation's representatives and forced them to return to their homes, there began a period of a hundred and seventy-years of absolute monarchy.

Since the States-General met so infrequently, it is not surprising that they showed little development either in form or in their manner of proceeding. The States of 1614-15 were still a gathering of three groups of representatives, each separately elected by one of the three Orders. The greater part of their proceedings consisted of separate deliberations held by each Order, and there was in fact much bitter antagonism between the three. No regular legislative procedure had been developed. According to the custom inherited from the middle ages, each member, or the members of each Order in a particular constituency, brought written records with them of the wishes of their electors, in the form of memorials of complaints (*cahiers de doléances*). Each Order then attempted to embody the memorials of all its members in a joint memorial, to be presented to the King, who might, or might not, decree legislation of the kind desired, after the session was over.¹ Most significantly of all, the States-General had acquired no real

¹ In point of fact, a number of proposals made at meetings of the States-General in the fifteenth and sixteenth centuries did eventually become law in the form of royal ordinances (see the comparison of *cahiers* with ordinances in G Picot's *Histoire des Etats Généraux*, Paris, 1872). But this was not due to any power possessed by the States which, once dissolved, had no further direct influence over the Crown.

control over the finances of the realm. On the contrary, the monarchy had, during the first half of the fifteenth century, secured the recognition of its right to levy taxes without the consent of the States, and even at its weakest moments had remained strong enough to maintain this right.

Thus it was that when the gradual breakdown of the royal administration and the imminent bankruptcy of the State compelled Louis XVI, after holding an Assembly of Notables in 1787 and 1788, at last to summon the States-General for the following year, it was to an institution still medieval in form that he was turning. Moreover, this medieval form could not be lightly shed, since the first two Orders, the Clergy and the Nobility, still possessed the privileges which differentiated both of them from the Third. It is not, therefore, surprising, that with little exception, such parliamentary tradition as was connected with the States-General was doomed, together with many other more solid features of the Old Regime, to be swept away without trace by the flood waters of the Revolution.¹

2. *The States-General become the National Assembly*

Since the States-General had not met since 1615, it is not surprising that in 1789 there was general uncertainty, both among the royal administration and throughout the nation as a whole, as to how they ought to be elected, how many representatives they should contain, how they should sit, and similar matters. Municipal and other authorities were ordered to search for evidence of past electoral procedure, and report their findings to the administration. Throughout the country the theoretical speculations of a hundred years on the subject of parliamentary government culminated in a great quantity of pamphlets. Two questions assumed a fundamental importance. The first was whether each Order should be entitled to elect the same number of representatives, or whether the Third State, a much larger body of electors, should have double representation (i.e., the same number of representatives as the

¹ It should be noted that, sometime before 1789, the word *parlement* had become disassociated with deliberative assemblies, and was applied only to certain important courts of law. There were twelve such *parlements* in different parts of France. The oldest and most famous of them was the *Parlement* of Paris, it played a certain part in politics in the seventeenth and eighteenth centuries, through its *rémonstrances* (*remontrances*) against some of the royal enactments which came before it for confirmation and recording. At the Revolution all the *parlements* were abolished. In the sense of a legislative body of two houses, the word *parlement* only came into general use in the nineteenth century, when it was borrowed back from English. It did not appear with this meaning in any constitutional enactment until 1946.

other two Orders together). This problem was finally settled by the issue of a Royal Decree ordering double representation of the Third State. The second question was whether the three Orders should sit as three separate bodies or as one assembly. The former practice had been the usual procedure of the States-General in the fifteenth and sixteenth centuries, and had been used in 1614-15. The latter had been used in the session of 1484 (which was an exceptional one in other ways also), but had not been repeated. No decision had been reached on this question when the States met. It was to provide the field for the first constitutional battle of the Revolution.

The elections took place in the early months of 1789. The franchise was wide, although in the case of the Third State, election was indirect (the number of stages varying from two to four). Constituencies were, in general, based on the old royal administrative divisions of bailliages and seneschalsies which had provided the constituencies for elections to the States-General since the fifteenth century.¹ The total number of representatives finally elected was 1,214—308 for the Clergy, 285 for the Nobility and 621 for the Third State. In accordance with the old tradition, they brought with them the memorials of complaints (*cahiers de doléances*) of their constituents².

The States were formally opened by the King, on 5th May, 1789, at a joint meeting of all three Orders, held in the *Salle des Menus Plaisirs* at Versailles. After speeches by two of the royal ministers, the meeting was adjourned. Such a joint meeting for the opening of a session was in accordance with tradition, and did not in any way prejudge the still undecided question of whether, for normal proceedings, the Orders should sit together or separately. This question was of far-reaching importance, for if each Order deliberated separately, then each Order would present its own corporate decisions to the whole body, and the voices of the first two Orders could overrule that of the third by two to one; while if all three deliberated together, voting would be decided by a majority of all the representatives.

The members of the Third State seem to have expected that the Orders would again meet in a joint sitting on the second

¹ These divisions, which varied in size, took their styles of bailliage (*bailliage*) and seneschalsy (*sénéchaussée*) from the titles of the royal officials in charge of them. Such an official was usually called a bailiff (*bailly*) in the north of France, and a seneschal (*sénéchal*) in the south, he corresponded very roughly to an English sheriff. Bailliages and seneschalsies were abolished by the Constituent Assembly which in 1790 re-divided France into Departments.

² The *cahiers* were later published in the *Archives Parlementaires* (Vols. 1 to 6).

day. But separate rooms had been provided and the first two Orders proceeded to hold separate meetings, forcing the Third State to do the same. The first business in each Order was the Verification of the Credentials of those who claimed to have been elected.¹ It was therefore on this that the question of the manner of sitting first came formally before the States-General, and on this that it clearly had to be answered, since the decision in this particular case was bound to set a general precedent and affect the whole character of the States-General. The Clergy and Nobles each decided that their Order should separately examine the Credentials of its own members. But the Third State considered that all three Orders in one body should examine the Credentials of all, and sought to persuade the other two Orders to join them in this task.

The question was discussed in each Order, and in meetings of commissioners from each of the three.² On 10th May the Third State decided to invite the other two Orders to join them in the examination of the Credentials of all the representatives, but to proceed with the examination, whether the invitation was accepted or not. On 12th May a list of all constituencies was read through, the representatives of each being asked to present themselves and hand in their Credentials. Those of the Third State were present in the great majority of cases, those of the Clergy appeared for one constituency only, and all those of the Nobility were absent.

The Third State proceeded to the examination of the Credentials received, and, having completed this, on 17th June, in a resolution moved by the Abbé Joseph Emmanuel Sieyès,³ declared themselves to be a National Assembly. On the 19th June a bare majority of the Clergy voted to join them. The next day, when the members of the Third State went to the *Salle des Menus Plaisirs*, they found the entrance barred and the hall occupied by soldiers who, they were told, were preparing it for a Royal Sitting. Thereupon the Provisional President, Bailly, convoked the National Assembly in a nearby tennis-court. There the Deputies (with one exception) took the famous Tennis-Court oath "never to separate, and to reassemble whenever circumstances require, until the

¹ This proceeding is still the first business of the National Assembly at the beginning of a new legislature.

² These meetings occupied much time in a kind of "precedent match" between the Nobility and the Third State, whose representatives ranged back through the first meetings of the States to the times of Charlemagne, and finally to the "Germania" of Tacitus.

³ Sieyès, though a member of the Clergy, sat as a representative of the Third State.

constitution of the Kingdom is established and made firm upon solid foundations".

The Royal Session, held on 23rd June, was attended by all three Orders. Two sets of instructions from the King were read. The first concerned the procedure of the States, and included the command to preserve the ancient distinction of the Orders, the second described the measures which the King wished to be taken for the government of the country. The King also spoke himself, threatening, if necessary, to govern without the States, and ending with a command to the Orders to separate and to meet next day in their respective halls. He then left, followed by the majority of the first two Orders. The Third State, with a few Clergy, remained behind. There then took place a famous scene, of which Deputies are still reminded daily by a sculptured relief in the Palais Bourbon. The King sent his Grand Master of Ceremonies to remind those Deputies who had remained in the hall of his command to leave. The Comte de Mirabeau replied, ending (in words which have been variously reported) with the declaration that they would only leave their places at the point of the bayonet. The Grand Master of Ceremonies then left, and "a gloomy silence reigned in the Assembly". Discussion soon arose, however, upon the incidents which had just passed. The general mood was summed up by Sieyès, in famous words, "Gentlemen, we are the same today as we were yesterday. Let us deliberate." The meeting then passed a resolution declaring the inviolability of the Deputies.¹

Next day the majority of the Clergy and forty-seven of the Nobility under the Duke of Orleans, joined the Third State in the National Assembly. On the 27th June, at the instigation of the vacillating King, all the remainder of the first two Orders attended, though many of them with little enthusiasm.² After this date the States-General may be said to have ceased to exist, and the National Assembly to have taken their place.

II. LEGISLATIVE ASSEMBLIES SINCE 1789

I. THE ASSEMBLIES OF THE REVOLUTION, 1789-1799

In fifty-three days the representative assembly of France had been transformed from a medieval gathering of the King's principal subjects, grouped into three distinct classes, into

¹ See Chapter III, Part V.

² The Nobility did not fully participate in the deliberations of the Assembly till the second half of July.

a modern parliament composed of the Deputies of the people. These Deputies had now to set about reorganising the government of the State so that parliament could take part in it. For this task they had been prepared by the writings of the political philosophers of the preceding hundred years, of whom Montesquieu and Rousseau are the most famous. They had also the examples of the much admired, but much misunderstood, parliamentary system of Great Britain, and of the recently completed Constitution of the United States. But of practical experience of parliamentary government they had none. With immense enthusiasm they set out to give democratic institutions to a country where only absolute monarchy had reigned throughout all living memory. This end was not to be achieved quickly, and has perhaps never been achieved with unquestioned success. During the hundred and fifty seven years between 1789 and 1946 France was to have twelve different Constitutions, as well as two periods of provisional government. These years in the story of France are equalled by few other periods of history in variety and dramatic excitement. It is far beyond the scope of this book to examine them in detail. In the following pages, however, an attempt will be made to describe, in outline only, the series of parliamentary assemblies which succeeded each other. For it is from the experience gained in this long process of open-handed trial and extravagant error that the solid balance of parliamentary rule and custom has been built up.¹

(1) *The National Constituent Assembly (l'Assemblée Nationale Constituante), 1789-91*

The National Assembly, which came to be called the National Constituent Assembly, sat for over two years. The numbers of its members were considerably reduced during this time by emigration. On 6th October, 1789, it moved, in company with the King, to Paris, where it sat in the Tuilleries Palace, first in the Archbishop's Chapel and then in the Riding School (*le Manège*). This was a fateful transference, for it put the Assembly directly under the eyes of the Paris mob, the influence of which was to be felt on many occasions in the coming years. Amid growing disorder and the spread of extremist views, the Constituent Assembly passed a mass of

¹ The texts of all the constitutional enactments which have been in force in France at various times between 1791 and 1924, and other measures connected therewith, are given by Léon Duguit and Henry Monnier in *Les Constitutions et les Principales Lois Politiques depuis 1789* (Paris, 1925).

legislation, completely reforming the administration of the country. Its culminating work was the first written Constitution in the history of France. The drafting of this had been begun in the summer of 1789; its preamble, the famous Declaration of the Rights of Man and of the Citizen (*la Déclaration des Droits de l'Homme et du Citoyen*) was completed on 27th August of that year. The complete Constitution involved long discussion both in committee and in the whole Assembly. It was finally agreed to, and was signed by the King on 3rd September, 1791. The Constituent Assembly dissolved itself on 30th September. One of its last acts had been to decree, on Robespierre's motion, that its members should not be eligible for membership of its successor—thus throwing away such political experience as they had begun to acquire.

(ii) *The National Legislative Assembly (l'Assemblée Nationale Législative), 1791-2*

The position and form given to parliament in the Constitution of 1791 was governed by two principles which have continued ever since, though not to the same degree, to exercise their influence on French political theory. The first of these was that of the sovereignty of the people. "Sovereignty is one, indivisible, inalienable and indefeasible; it belongs to the Nation; no section of the People, nor any individual, may claim its exercise for himself." (Constitution of 1791, Part III, art 1) This clear-cut location of the supreme authority of the nation in the people themselves, derived from the philosophers of the previous hundred years, was to reappear in the constitution of the Second Republic, it was in effect the practical basis of the constitutional laws of the Third; and is now inscribed, in only slightly different language, in the constitution of the Fourth.

The second governing principle is that known as "the separation of the powers" (*la séparation des pouvoirs*). The theory usually referred to in these terms had been first developed earlier in the century by the philosopher Montesquieu. He held that in any state all authority could be divided into three branches or "powers"—legislative, executive and judicial (though he did not use precisely those terms)—and that, to ensure that government should not become arbitrary, it was essential that each power should reside in different hands, so that "power should check power" ("que le pouvoir arrête le pouvoir"). His definition of the three powers is generally accepted. His argument for their rigid separation may seem false to us who are used to being governed by the Executive

through Parliament; but it was in fact drawn by him from a misunderstanding of the English institutions of his time, and supported by the example of their success. The most famous expression of the principle is, of course, in the Constitution of the United States. In France, complete separation of the powers has not been embodied in any constitution since the fall of the Directory in 1799. But the theory has never been forgotten, and claimed attention, even if inevitably to be rejected, in the making of the Constitution of 1946.

On these two principles the organs of the new constitution rested. The Nation, from which alone all the powers emanated, was too cumbersome an entity to exercise them except by delegation. It therefore delegated the legislative power to a Legislative Body (*Corps législatif*), the National Legislative Assembly, the executive power to the King (to be exercised on his authority by his ministers) and the judicial power to elected judges (Constitution, Part III, arts. 2-5).

The Assembly, which thus came into being on 1st October, 1791, existed independently of the King, and could meet without convocation by him, and the King could not dissolve it. He alone appointed ministers; but they could not be chosen from members of the Assembly (nor from ex-members within two years of their retirement) and consequently were not responsible to it. The development of cabinet government as we know it was thus impossible. Ministers could, however, attend meetings of the Assembly, and speak there on matters related to their functions, and on other subjects if required or permitted by the Assembly. The King could not have bills introduced into the Assembly though he could invite it to consider a matter. The only other part he had in legislation was the power of imposing a provisional veto, which could be overruled when the same decree had been presented to him by three consecutive Legislatures and which did not extend to financial measures. The initiation of legislation thus lay entirely with the legislative power.

The Assembly contained one chamber only.¹ Its members were known as Representatives of the Nation, or more shortly as Representatives (*représentants*). Their constituencies were provided by the new Departments (*départements*), into which the Constituent Assembly had redivided France. The franchise

¹ Before and in the early days of the Revolution, many of the more moderate reformers had been in favour of a two-chamber parliament, including a House of Peers. The intransigence of the nobility in 1789, followed by the emigration of many of them, made this no longer a practical proposal.

was possessed by all male citizens over twenty-five, but was subject to certain limitations including a property qualification. Election was indirect. In each Department the citizens so qualified (who were known as "active citizens") chose "electors"; these in turn elected the Representatives. The Assembly was to be re-elected every two years.

The subsequent course of the Revolution, however, did not allow the National Legislative Assembly to survive even a single year. On 20th June, 1792, rioters invaded both the Assembly (ostensibly as petitioners) and the royal palace. On the 10th August the Tuilleries was sacked. The King took refuge with the Assembly which, the same day, passed a decree inviting the French people to elect a National Convention to draw up a new constitution, and provisionally suspending the King from his functions. On 13th August it handed the King to the municipality of Paris, by which it was now thoroughly overawed. The elections took place in August and September, amid growing violence which culminated in Paris in the "September massacres". The Assembly dissolved itself on 21st September, 1792. Yet, short-lived as the Constitution of 1791 was, the influence on French republican thought of the ideas upon which it was built has never entirely died out, and was still felt by the constitution-makers of 1946.

(ii) *The Convention (la Convention), 1792-95*

On 21st September, the Convention met, sitting like its predecessor in the Riding School of the Tuilleries. It had seven hundred and eighty two members. They had been elected under a system similar to that of 1791, though the property qualification for the franchise had been abolished. The authority of the King and his ministers had by now been reduced to nothing, and the monarchy was formally abolished by decree of the Convention on 22nd September, 1792. The King himself was shortly to be tried, and was executed on 21st January, 1793. The authority which should have held the executive power had thus ceased to exist. The next three years, the most violent period of the Revolution, saw a bitter struggle for its possession. It took the form of the party battles of the Girondists and Jacobins,¹ supplemented by personal rivalries, notably that

¹ The Girondists took their name from the Department of the Gironde, the representatives from which were prominent in the party. The Jacobins were so-called from the Jacobin Club, which they frequented. The extreme revolutionaries among the Jacobins came to be called the Mountaineers (*les Montagnards*) from the position in which they sat high up on the extreme left of the chamber.

between Danton and Robespierre. In 1793 and 1794 the "separation of the powers" broke down completely. The legislature wielded the executive power through the committees of the Convention, principally through the notorious Committee of Public Safety (*le comité du salut public*), which at one time was the effective government of the country and sent "representatives on mission" (*représentants en mission*) all over France. The faction which controlled it also used the Committee of General Security (*Comité de sécurité générale*) to dominate the police, and exercised the judicial power through the Revolutionary Tribunal or Extraordinary Criminal Tribunal (*Tribunal criminel extra-ordinaire*) which the Convention set up in March, 1793. The experiences of this period have never been forgotten in France. The phrase "a Conventional regime" (*un régime conventionnel*) has become an accepted description of a constitution in which all powers are concentrated in the Legislature.

After the fall of Robespierre in the events of 9th and 10th Thermidor (27th-28th July), 1794, the Convention came again under the control of the more moderate members, and in the spring of 1795 turned back to the task for which it had been elected—the making of a constitution.¹ Having accomplished this, it dissolved itself on 26th September, 1795.

(iv) *The Period of the Directory (la Directoire), 1795-99.*

The makers of the Constitution of 22nd August, 1795 (or 5th Fructidor, Year III, in the Republican Calendar)² wished above all things to make impossible a repetition of the events of the three preceding years. They therefore returned to the principle of the separation of the powers, and provided for its establishment in the most complete form in which it has ever been known in France. In addition, to secure the state still more thoroughly against too great a concentration of

¹ On 24th June, 1793, the Convention, then dominated by the Mountaineers, had agreed to a constitution known as the Constitution of 1793, which was intended to come into force as soon as peace was restored. It was based, as might be expected, on the concentration of all power in the hands of the sovereign people, and so was in general the antithesis of the Constitution of 1795. It was never brought into force, but it has always held an important place in the revolutionary tradition, and has been considered by its admirers the most democratic constitution ever evolved in France.

² The Republican Era dated from 22nd September 1792, the date on which the monarchy was abolished. The Republican Calendar came into force on 24th November, 1793, and was officially abolished as from 1st January, 1806. For an account of it and of its relation to the Gregorian Calendar see *La Grande Encyclopédie*, s.v. *Calendrier*.

authority in any one quarter, they divided both the legislative and the executive powers

The legislative power was entrusted to a Legislative Body (*Corps législatif*), which for the first time in French history contained two Chambers. The Lower Chamber was called the Council of Five Hundred (*le Conseil des Cinq Cents*) and the Upper the Council of Ancients (*le Conseil des Anciens*), they had five hundred and two hundred and fifty members respectively. To belong to the Ancients, a man had to be over forty years old and married (or a widower). For election to each Chamber a system similar to that of 1791 was used, but for the franchise the property qualification was re-established, and in a more exacting form than before. The two Councils were permanent, one-third of the members of each retiring annually. The power to initiate legislation was vested in the Five Hundred alone. When they had passed a bill, they transmitted it to the Ancients, who could only approve or reject the whole of it. A bill rejected in the Five Hundred after three debates, or rejected once by the Ancients, could not be re-introduced for one year. The two Councils had always to sit within the same *commune*,¹ the choice of place was the prerogative of the Ancients. On the other hand, they were forbidden to sit together in the same room. At the elections of 1795 the seven hundred and fifty members of the Legislative Body were elected without distinction between the Councils. The whole body met on 27th October and chose the two hundred and fifty Ancients from its members. Both Councils then took up residence in the Tuilleries, the Five Hundred in the Riding School, the Ancients in the Hall. In 1798 the Five Hundred moved to the Palais Bourbon, which, except for two periods, remained henceforth the seat of successive Lower Chambers.

The role intended for the two Councils was defined by the politician Boissy d'Anglas in a sentence which became famous. "The Council of Five Hundred", he said, "will be the imagination of the Republic, the Council of Ancients its reason". The Second Chamber thus came into French institutions not, as into those of England, in the natural course of historical evolution, but as the result of an attempt to divide and portion out authority with calculated precision

The executive power was in the hands of a body called the Directory (*la Directoire*), consisting of five Directors (*Directeurs*), each of whom presided over it for three months at a time. The Directors were to be chosen by the Ancients from a list prepared

¹ A local government division, very roughly equivalent to an English parish

by the Five Hundred. One was to retire annually, and could not then be re-elected for five years. Once appointed, the Directory had no responsibility to the Legislative Body, nor any control over it. The Directors could not initiate legislation nor even appear in either Council, and could only communicate with them by messages. No person might be a Director while a member of the Legislative Body, nor for one year after he had left it; and no member of the Legislative Body might hold public office outside it.

The Constitution of 1795, with its rigid separation of legislative and executive power, could only have been made to work with the good will and good intentions of all concerned. It did not have these conditions. The four years of its history saw a continual struggle on the part of those politicians who were associated with the more violent phases of the Revolution and its more repressive measures to maintain their control of the government. Each annual election made this more difficult for them. From September, 1797, onwards the Directory did its best to control the Legislative Body by illegal and violent means, while in the last of the four years the extreme revolutionaries in the Councils themselves succeeded in passing a new series of unpopular measures. Thus Executive and Legislature alike became thoroughly discredited, while misgovernment and violence grew throughout France.

It was the wide-spread desire for the end of such conditions and for a return to order above all else, which provided popular support for the "coup d'état of Brumaire", carried out by Bonaparte and his troops in conjunction with a group of politicians lead by the Abbé Sieyès. In this famous affair, on 9th and 10th November, 1799, every effort was made to maintain the appearance of legality, but it culminated in the driving of the Five Hundred from their hall at the point of the bayonet.¹ The same evening the Ancients and a "rump" of the Five Hundred passed a measure entrusting provisional government to three Consuls (*Consuls*), Bonaparte, Sieyès and Roger-Ducos. The Legislative Body was adjourned for three months, and the Councils never held full meetings again, though a committee of each continued to sit in private to conduct necessary business. A new constitution was drawn up by Bonaparte with the help of Sieyès and others, but effectively expressing his own will. It was promulgated on 13th December,

¹ The Councils had both moved to the Palace of St Cloud, on the outskirts of Paris, on the resolution of the Ancients (which in conformity with the Constitution, bound the Five Hundred to move also).

1799 (22 Frimaire of the Year VIII), and was subsequently approved by the nation in a referendum.

* * * * *

The announcement of the new Constitution was claimed by the three Consuls, in a public proclamation, to mark the end of the Revolution. It certainly signified the end of France's first experiment in democracy. The search for a workable system of parliamentary government had failed. But though the Revolution did not bequeath any permanent form of national representative institution to France, it left a tradition which was to play its part, even in 1946, in the creation of those which were to come later.

2. THE CONSULATE AND THE FIRST EMPIRE, 1799-1815

From 1799 to 1814 the supreme authority in France was that of Napoleon Bonaparte, first as First Consul, then as Consul for Life (1802), and finally as Emperor (1804). For each of these steps in his advance he obtained the approval of the nation at a plebiscite or referendum, and his regime has therefore been claimed to be a "plebiscitary democracy". Such a form of democracy was certainly contrary to the spirit of the definition of sovereignty in the Constitution of 1791, as it is to that in the Constitution of 1946. In practice, though the majority of Frenchmen probably supported Napoleon till near the end of his reign, they had abdicated their right to control the details of their government. Consequently, though this period was of the greatest importance in the development of the French administrative and legal systems, in the history of representative institutions it is a time of stagnation.

Under the Constitution of 1799 and the succeeding constitutional enactments,¹ the Government alone could initiate legislation. The phrase "the Government" (*le Gouvernement*) appears in a French constitution for the first time in 1799. At that time it signified the three Consuls who were named in the Constitution; under the Empire the Government was in effect the Emperor and his ministers, who were appointed by him, and responsible only to him.

Four different bodies were concerned with the exercise of what remained of the legislative power. The legislature proper consisted of the Tribune (*le Tribunat*) of a hundred members, and the Legislative Body (*Corps législatif*) of three hundred. The

¹ The most important of these were the *Senatus-consultes organiques* of sixteenth Thermidor, Year X (4th August, 1802) and 28th Floréal, Year XII (18th May, 1804).

Tribunate discussed bills (*projets de loi*) proposed by the Government, but could make no decision upon them. After finishing the discussion of a bill, it sent three representatives who, together with representatives of the Government, debated upon it before the Legislative Body. The latter held no debate itself, but simply voted upon the bill. This curious idea of legislation as a kind of legal action between two parties, originated with Sieyès. The members of both assemblies were nominated by a third body, the Conserving Senate (*le Sénat-Consevateur*), from lists chosen by complicated systems of indirect election in several stages (the franchise for the first stage being open to all male citizens over twenty-one). One fifth of the membership of each was to be renewed annually.

The Conserving Senate could itself consider, and uphold or annul, legislative acts referred to it by the Government or the Tribune as being unconstitutional, it was from this function of conserving the Constitution that it took its name.¹ The first two Senators were named in the Constitution of 1799, and they, together with the Consuls, made further nominations until there was a total of sixty Senators. They were then gradually to co-opt others until the number reached eighty, and were to replace any vacancies themselves. A Senator had to be at least forty years old, he held his seat for life. A fourth body, the Council of State (*le Conseil d'Etat*), the members of which were appointed by Napoleon himself, was responsible for drafting bills and regulations.

Under this system, the Government was largely able to control the membership of the Tribune and the Legislative Body. Even so, a certain amount of opposition was shown at first in the Tribune. The Government therefore tightened its control in 1802 by enacting that the choice of members to retire from the two bodies annually should be made by the Senate instead of by lot as before. In 1804 the Tribune was weakened still more, being divided into three sections, and forbidden to hold any debate on a bill except in separate meetings of these sections. From then on the Legislature lost all such influence as it had possessed upon legislation and the conduct of affairs. In 1813-14, however, the Senate, and still more the Legislative Body, became of some importance as centres of disaffection against the imperial regime.

¹ A measure which was promulgated as law after reference to the Conserving Senate was known as a *Sénatus-consulte*. This nomenclature was taken from the *senatus-consulta* of ancient Rome. It was used again, in a similar sense under the Second Empire, but was never adopted by any other régime in France.

On his return from Elba in 1815, Napoleon dissolved the two Chambers of the Restored Monarchy, and set up a committee to draw up new constitutional proposals. These were embodied in an Act Additional to the Constitutions of the Empire (*l'Acte Additional aux Constitutions de l'Empire*), which was approved at a referendum (though in a small poll) and was in force from 22nd April to 23rd June, 1815. It provided for institutions which resembled in many ways those of the Restored Monarchy. The legislature was to consist of a Chamber of Peers and a Chamber of Representatives. These bodies were duly elected. After Waterloo, they declared themselves in permanent session, set up a provisional government and went so far as to prepare the draft of a new constitution. But the future was decided for them by the Allies, the provisional government shortly recognized Louis XVIII as King once more, and the Chambers were dissolved.

3. THE RESTORED MONARCHY, 1814-1848

(1) *The Charter of 1814*

Shortly before the entry of the Allies into Paris in 1814, the Imperial Senate had drawn up a proposed constitution for a limited monarchy. But Louis XVIII was able to return to the throne without undertaking to accept this. In May 1814, he set up a committee of three royal commissioners, nine Senators and nine members of the Legislative Body to prepare a new constitution. This took the form of the Constitutional Charter (*la Charte Constitutionnelle*) of 1814. On 4th June it was read to a royal sitting of the Senate and the Legislative Body, and the members of these bodies then took the oath of allegiance to the King and to the Charter. The Napoleonic institutions then came to an end.

The Charter of 1814 set up a constitutional monarchy. It assumed the divine right of the Bourbons to the throne, but its opening clauses, which assured Frenchmen of various individual rights, showed that there was to be no return to the Old Regime. The general shape of the institutions set up was borrowed from England, where Louis XVIII had lived for many years, though the King and his ministers enjoyed distinctly greater powers than did their English counterparts, and various restrictions curtailed the political activities of his subjects.

The executive power was reserved to the King alone. The legislative was exercised collectively by the King and two

legislative Chambers. The King's ministers might be members of either Chamber, and had the right to attend and to speak in both. Judges were nominated by the King, but could not be removed from office. The three powers were thus neither separated nor completely concentrated, but associated, as they had long been in England, and as they have been during the greater part of subsequent French history.

The two Chambers were the Chamber of Deputies and the Chamber of Peers. The Chamber of Deputies of Departments (*la Chambre des Députés des départements*), to give it its full name, was an elected body. No one might be a Deputy, however, unless he was forty years old, and paid one thousand francs annually in direct taxation. Moreover the method of election was indirect, and no one might be an elector unless he was thirty years old and paid three hundred francs annually in direct taxation. This provision restricted the franchise to about 100,000 persons. In 1820 certain of the most heavily taxed electors received a second vote. The constituencies were provided once more by the Departments, and at least half the Deputies had to be residents of the Departments which they represented. Under the Charter one fifth of the Chamber was to be renewed annually, this system was changed in 1824 to that of complete renewal every seven years (the system in force in England at that time). The President of the Chamber was to be nominated by the King.

The Chamber of Peers (*la Chambre des pairs*) was intentionally modelled on the House of Lords. Its members were persons nominated by the King, to hold hereditary or life peerages. A peer could not take his seat till he was twenty-five, nor speak in debate before he was thirty. The Chamber was presided over by the Chancellor of France, or in his absence by a peer named by the King.

Each Chamber was to be convoked annually by the King. He could prorogue them, and could dissolve the Chamber of Deputies but must then convoke a new Chamber within three months. The Chamber of Peers might only sit during the sessions of the Chamber of Deputies, unless otherwise ordered by the King.

The legislative power of the Chambers was limited. The King alone had the right to introduce a bill. He might present it to either Chamber, except in the case of a bill for taxation which must be presented to the Chamber of Deputies. The Chambers might, however, together "humbly petition" (*supplier*) the King (if they could agree so to do) for the

introduction of a bill, and might suggest what they would like it to contain. No amendment might be made to a bill unless proposed or agreed to by the King. Finally, the royal assent was necessary before a bill became law. No taxation might be imposed unless agreed to by both Chambers.

The Chamber of Deputies had the right to accuse ministers and to bring them to trial before the Peers. This provision, entirely new to France, was imitated from the English procedure of impeachment. It was to survive and after various alterations it may still be seen in the Constitution of 1946 in the provisions providing for the trial of ministers by the High Court of Justice.¹

The Charter, which fell into abeyance during the Hundred Days, came again into force on the Second Restoration of Louis XVIII. In conformity with its principles France was subject, until 1830, to a very restricted form of parliamentary government. During this time continuous efforts were made on the one hand to liberalize the constitution, on the other to restore absolute monarchy. It was an attempt of the second kind which brought about the end of the regime.

The Charter gave the King the right, as wielder of the executive power, to make regulations necessary not only for the execution of the laws but also "for the security of the State." On the pretext of this phrase, Charles X in July 1830, issued ordinances which, among other provisions, would have dissolved the newly elected and potentially hostile Chamber of Deputies before it had met and altered the electoral law to his own advantage. This action precipitated the "July Insurrection" which took place on 28th and 29th July. As a result, a provisional government was set up, and the post of Lieutenant General of the Realm was offered to Louis-Philippe, Duke of Orleans, who belonged to a younger branch of the royal family. Both Chambers met on 5th August, and proceeded to draw up an amended Charter. Louis-Philippe accepted this, and was called to the throne. On 9th August he swore to observe the Charter in its modified form, in the presence of both Chambers at the Palais Bourbon.

(ii) *The Charter of 1830*

The Charter of 1830 was simply the text of 1814 with amendments, and maintained the same institutions. The King's executive power was somewhat curtailed, by the limitation of his right to issue regulations which might now only be made

¹ Constitution of 1946, arts 56 to 59

for the purpose of executing the laws in force and might not entail the suspension of the law. Another important concession was the granting to the Chambers of the right to introduce bills. The Chamber of Deputies was permitted to appoint its own President. The composition of the Chambers, unaffected by the amendments to the Charter, was somewhat altered by law in 1831. The hereditary peerage was then abolished, and a number of categories of distinguished persons were named, from whom the King was to choose life peers. The property qualification for membership of the Chamber of Deputies was lowered, the payment of five hundred francs a year in taxation only being required, while the age qualification was lowered to thirty years. The similar qualifications for the franchise were lowered to two hundred francs (and one hundred francs in a small number of cases) and twenty-five years respectively, but by the end of the July Monarchy the number of electors was still under a quarter of a million.

The Charter in its amended form and the acts of 1831 provided a base from which an advance to full parliamentary democracy with a wide franchise might well have been made by peaceful means. But concessions were not made by the monarchy in time. Desire for reform grew (though the reformers held widely differing views of what they wanted) and finally broke out in the Revolution of February 1848. On the 24th of that month, Louis-Philippe abdicated and a republic was proclaimed. A Provisional Government was set up, which dissolved the Chamber of Deputies and forbade the Peers to meet.

4. THE SECOND REPUBLIC, 1848-52

On 5th March, 1848, the Provisional Government issued a decree arranging for the election of a National Assembly to draw up a constitution. This was the first general election in France in which both universal manhood suffrage and direct voting were used (though such a method had been provided for in the still-born Constitution of 1793). The electorate numbered over nine million. The National Constituent Assembly—the second in French history—met in the Palais Bourbon on 4th May. Its work was several times interrupted by the more extreme revolutionaries, who, as always, were particularly strong in Paris. On 15th May a procession formed to demonstrate in favour of the insurrections which had taken place in Poland, invaded the Assembly for a time.

In June more serious risings were suppressed with much bloodshed. The new Constitution was finally completed and was promulgated by the President of the Constituent Assembly on 4th November.

The Constitution of 1848 was based in theory on the same two principles as that of 1791. It opened with a similar definition of sovereignty, which it declared resided "in the universal body (*l'universalité*) of French citizens". It also stated that "the separation of the powers is the first condition of a free government". In practice the second principle was only applied in a much modified form, the experiences of sixty years and the desire of the constitution-makers to maintain order at the moment produced a fresh association of the powers.

The legislative power was delegated by the people to a single Assembly of seven hundred and fifty Representatives, elected by direct universal suffrage. Membership was open to all Frenchmen of twenty-five, and all over twenty-one might vote.¹ The constituencies consisted once more of Departments. The Assembly was to be wholly re-elected every three years, and the newly-elected Assembly was to meet of its own right the day after the term of its predecessor expired. Within this term, the Assembly could adjourn and convoke itself. The legislative power was thus concentrated, as it had been in the first three revolutionary assemblies, though a certain degree of surveillance of legislation was to be exercised by the Council of State (chosen by the Assembly).

The executive power was delegated for the first time to a President of the Republic. He was to be elected by universal suffrage—a provision which ominously recalled the plebiscites of the first Napoleon's time. He was to hold office for four years, and could not then be re-elected till after another four years. To him were attributed various functions normally exercised by the personal head of a state, whether king or president, such as the signing of treaties and the reception of foreign ambassadors. He nominated and dismissed ministers, but all his other enactments required validation by a minister's signature. He nominated, but could not dismiss, the higher judges. For the only time in French history, there was also to be a Vice-President of the Republic, nominated by the Assembly.

¹ The franchise was soon to be again curtailed by the Act of 31st May, 1850, which limited it to persons who could show that they had resided for three years in the same *commune*. This in effect re-introduced a property qualification, and deprived some three million citizens of the vote.

Both the President of the Republic and the Representatives might present bills to the Assembly. Ministers had the right to attend and speak there. Bills passed by the Assembly were promulgated by the President, who might first ask for a fresh deliberation upon them (as under the Third and Fourth Republics). The President might himself convocate the Assembly, but any attempt by him to dissolve, prorogue or otherwise obstruct it in its constitutional duty was an act of high treason, involving the passing of the executive power from him to the Assembly.

The Constituent Assembly was not dissolved till May, 1849, the Legislative Assembly met on 1st October. But meanwhile, on 10th December, 1848, Louis-Napoleon Bonaparte, nephew of the first Emperor, had become first President of the Republic. Playing on the widespread fear of the growing socialist movement and on the glorious memories associated with his family, he had secured his election by an overwhelming majority. From this position he steadily prepared to seize absolute power for himself, on the one hand making the most of his considerable personal popularity as his uncle's heir, on the other ruthlessly suppressing his opponents. But his term of office was limited, and on its expiry he could not be re-elected for four years, he would therefore lose his opportunity, unless he could secure in time a revision of the Constitution. This he was unable to do by legal means, since he could not make certain of the majority of three quarters of the Assembly which under the Constitution was required for its revision. He therefore carried out the *coup-d'état* of 2nd-4th December, 1851, dissolving the Assembly (which legally he might not do) nominally restoring universal suffrage and announcing the holding of a plebiscite. All opposition was suppressed by the army and the officials of the Ministry of the Interior.¹ The plebiscite was held on 20th December, and a large majority voted that Louis-Napoleon should continue in power and delegated to him the authority to make a new constitution, on the lines which he had proposed in a proclamation on 2nd December.

The President then appointed a commission of five of his supporters to draw up a new constitution. This he promulgated on his own authority, on 14th January, 1852, though it did not come into force until 29th March, when all the new members of the new institutions had been appointed. It retained the

¹ Some twenty thousand persons were officially recorded to have been deported or imprisoned in France in the following months.

Republic in name, entrusting its government to Louis-Napoleon for ten years, but it really belongs to the history of the Second Empire. This was set up by the *senatus-consulte* of 7th November, 1852, which was ratified at a plebiscite on 21st and 22nd November, and promulgated as law by Imperial Decree on 2nd December.

5 THE SECOND EMPIRE, 1852-1870

When Louis-Napoleon promulgated the Constitution of 1852, he accompanied it with a proclamation in which he explained its principles to the French people. He pointed out that for fifty years the country had successfully used the organisation introduced by Napoleon I in the administrative, judicial and other spheres, should it not adopt his political organisation also? In conformity with this argument, he modelled the new institutions upon those of the First Empire.

The government of France was confided to one man, the Head of the State (who was at first President, but soon Emperor). He was "responsible to the people", from whom he derived his authority through their vote at a plebiscite, and he retained the right to appeal at any time to their support through a fresh plebiscite. All executive power lay ultimately with him, he alone could initiate legislation and justice was administered in his name. The three powers were, in fact, concentrated in his person. Ministers were responsible to him for their actions as individual ministers; they had no collective responsibility as a cabinet.

The legislative power was divided among several bodies as under the First Empire. There were again to be a Senate, a Legislative Body and a Council of State, each with quite distinct functions. The Tribune was not reproduced, and there was no revival of the curious and unpractical procedure under which the orators of the Tribune and the Government disputed upon bills before the Legislative Body.

The Senate consisted of all cardinals, marshals and admirals, and such others as the Emperor appointed, up to a maximum total of a hundred and fifty. The Senators held their seats for life. The Emperor appointed its President and Vice-Presidents, and convoked and prorogued its sessions. It sat in secret.

The members of the Legislative Body were called Deputies. They were elected for single-member constituencies, consisting of Departments or divisions of Departments. Their number was markedly smaller than that of the members of the Legislative

Assembly, the first Legislative Body had only two hundred and sixty-one Deputies. According to the letter of the Constitution, they were to be elected by universal suffrage, but in practice the Government was always able, by various methods of control, to secure that a majority of its own candidates were elected. A potentially hostile urban area could, for example, be combined into the same constituency with a large country district, where the voters were more reliable. Candidates supporting the Government were designated "official" candidates, and local officials, whose position depended on their loyalty to the Government, assisted them and hampered their opponents at every turn. From 1858 onwards a candidate had to swear an oath of loyalty to the Constitution and the Emperor a week before the election. The Government was thus able to maintain a majority in the Legislative Body throughout the Second Empire.

The Legislative Body was elected for six years at a time. The Emperor could dissolve it at any time. If he did so, he must summon a new assembly, but he had six months in which to do so. He could also convoke, adjourn and prorogue the Legislative Body. Its Ordinary Sessions were to last only three months. It normally sat in public, but was compelled to sit in secret on the request of only five Deputies—which in fact meant whenever the Government wished. The Emperor appointed its President and Vice-Presidents.

The Council of State consisted of between forty and fifty members, appointed by the Emperor and dismissible by him. It was presided over by the Emperor himself, or by a Vice-President appointed by him. It met in private.

Ministers had of right a seat in the Council of State. They might be members of the Senate but not of the Legislative Body. Indeed they never appeared in the latter at all, and so could not be directly questioned or argued with, still less interpellated, by the Deputies.

The Emperor alone could initiate legislation. The process began with the drafting of a bill by the Council of State (the other functions of which were to draw up administrative regulations and to decide disputed matters of administrative law). The bill was then presented to the Legislative Body, the constitutional function of which was to "discuss bills and taxation". It was then sent to the Senate, which was charged with the duty of opposing the promulgation of any bill found to be contrary to the Constitution and its principles, or prejudicial to the defence of French territory. The Senate was thus in this

respect, the guardian of the Constitution, in the same way as the Conserving Senate of the First Empire had been. The Government's case in respect of a bill was defended, in both Legislative Body and Senate, not by ministers but by specially delegated Councillors of State. The further function of the Senate was that of completing or interpreting the Constitution, where necessary, by enactments in the form of *sénatus-consultes*, which needed only the approval of the Emperor. During a dissolution of the Legislative Body, emergency measures might be presented to the Senate and considered by it alone. All legislation was finally promulgated by the Emperor. The annual budget was to be presented to the Legislative Body, but only its major divisions might be voted upon, and the Government was left free to transfer the Credits to purposes other than those for which they had been voted.

The history of the Second Empire falls into two periods. From 1852 to 1860 the method of government was in fact completely authoritarian. From 1860 onwards the Emperor began to make certain concessions to democracy, and the second part of his reign has been called the Liberal Empire (*l'Empire libéral*). The decree of 24th November, 1860, gave the Legislative Body certain opportunities to argue directly with the Government. It received the right to vote addresses to the Emperor (a procedure which had been used under the Resfored Monarchy), after discussion in which a government commissioner (*commissaire du gouvernement*) was present and could take part. Ministers without portfolio were also to be appointed, for the purpose of taking part in debates on legislation in addition to the Councillors of State. In 1867 the right of interpellating ministers was substituted for that of the voting of an address.

Still more important reforms were made in the *sénatus-consulte* of 8th September, 1869, and embodied and extended in the *sénatus-consulte* of 21st May, 1870, "fixing the Constitution of the Empire". The latter was in fact a new Constitution and its principles were submitted to a plebiscite. The Emperor's ministers were now to form a Cabinet (*conseil des ministres*) under his presidency. They could be members of either the Legislative Body or the Senate, and had the right to appear and speak in either. They remained, however, responsible to the Emperor alone.

The Legislative Body and the Senate both received the right to initiate legislation and were associated on a similar footing in the discussion and voting of bills. The Government might

introduce its bills into either of them, except in the case of a bill involving taxation which must be presented first to the Legislative Body. The Budget might be voted Chapter by Chapter, instead of by the much larger divisions previously required. The Senate lost its function of amending and interpreting the Constitution, which might now only be modified by a vote of the people on the Emperor's proposal. The two assemblies became, in fact, the first and second chambers of a parliament—and indeed they had been commonly referred to as "the Chambers" since 1860. They were now permitted to appoint their own officers, and to make their own Standing Orders (which the Emperor had previously made for them).

All these concessions had been made by the Emperor in the hope of placating the growing opposition to his regime. After the *coup-d'état* of 1851, republicans, monarchists and socialists had been divided and disorganized. But the enemies of the Empire had steadily regained strength. In particular the socialist movement had achieved a new and important influence. The Emperor himself was ageing. It is doubtful whether he could have long maintained his position, even if peace had continued. On 19th July, 1870, France declared war upon Prussia, and on 2nd September the Emperor was forced to surrender, with 80,000 men, at Sedan. The news reached Paris on 3rd September and the Legislative Body proceeded to discuss proposals for dealing with the crisis. Next day, while the Deputies were meeting in the *bureaux*, the Palais Bourbon was invaded by a revolutionary crowd. They proclaimed a republic and then moved on to the Hotel de Ville, where a Government of National Defence was constituted. The Second Empire was at an end, and its Chambers never met again.

6. THE THIRD REPUBLIC, 1875-1940

(1) *The Origins of the Republic*

On 28th January, 1871, the Government of National Defence signed an armistice with the Prussians and on 8th February elections were held to a National Assembly. The electoral law of 1849, under which the Legislative Assembly of the Second Republic had been elected, was again used. The total number of Deputies was seven hundred and fifty-eight. The Assembly met at Bordeaux on 12th February, but soon moved to Versailles, where it first met on 20th March. Meanwhile on

17th February it had nominated the veteran liberal Thiers as Chief of the Executive Power (*Chef du pouvoir exécutif*) and on 1st March had formally declared that the Napoleonic Empire was at an end. The main task for which it had been elected was to make peace, and this was fulfilled when the Peace of Frankfurt was signed in May, 1871.

The National Assembly, however, continued to exist for over four years more, and was not dissolved until, after long hesitation and much manoeuvring, it had enacted the institutions of the Third Republic. The reason for this long period of gestation lay mainly in the composition of the Assembly. Slightly more than half its original members were monarchists. They had been elected, mainly in the country constituencies, as men known to be in favour of peace, whereas republicans were temporarily associated with enthusiasm for the recent war, and suspected of a desire to continue it in the hope of better terms.¹ An immediate result of this was bitter estrangement between the Assembly and the more extreme and revolutionary republicans, particularly in Paris. This culminated in April and May, 1871, in an attempt to set up an independent republican government in Paris, known as the General Council of the *Commune*,² and to initiate parallel risings in other large cities. The movement was only serious in Paris itself which had to be recaptured for the Versailles Government by the use of troops, with much bloodshed. One result of the outbreak was that French representative assemblies continued to sit at Versailles until 1879.

There was at first some doubt as to whether the National Assembly, which had not been elected as a constituent body, had the power to make a new constitution. This was resolved by the Assembly itself. On 31st August, 1871, it passed an act making temporary dispositions for the government of the country, in the preamble to which it declared that it possessed constituent power. It also gave the Chief of the Executive Power the title of President of the French Republic and the

¹ This situation, which may seem paradoxical, was due mainly to the intense efforts which the republican Gambetta had made to organise resistance after the earlier disasters of the war.

² The general sense of the word *commune* is a community of people and the area in which they live. Legally, a *commune* is the smallest administrative division used in France, equivalent roughly to a parish, but having its own mayor and municipal council. During the Revolution the municipality of Paris, and thence the usurping municipal government set up there, came to be known as "the Commune" (*la commune*). Similarly the revolutionary government of Paris which in 1871 opposed the central government at Versailles was called "the Commune", and the whole period of its existence is also often so referred to. Its supporters should not be called communists (though some of them may have been communists). In France they were known as *communards*.

power to appoint and dismiss ministers, who were responsible to the Assembly. This act (known as the Rivet Act, after the politician of that name), and a further act of 13th March, 1873, which modified and extended it, provided the legal basis of the government of France until the passing of the constitutional acts of 1875.

These were the result of a long parliamentary struggle. The Act of 31st August, 1871, had not permanently and constitutionally established a republic. The new constitution had still to be made. Thiers, who in consequence of that act was now President, used all his influence in favour of a "conservative republic". But the monarchist majority in the Assembly resisted strongly. They were able, in May, 1873, to force the resignation of Thiers, and to elect the anti-republican Marshal MacMahon as President in his place. They were, however, divided among themselves into two parties, Legitimists and Orleanists, supporting respectively the rival claimants to the throne—the Count of Chambord, grandson of Charles X, and the Count of Paris, grandson of Louis-Philippe. The two factions failed to reach a compromise. Moreover, a monarchical state was not the desire of the majority in the country, as by-elections and local elections showed. The Count of Chambord himself made the return of the legitimate line finally impossible by a pronouncement in October, 1873, in the course of which he refused to accept the tricolour, by now almost universally revered as the flag of France, in place of the old royal standard (*the onflamme*). Even so, the constitutional acts which were at last passed in 1875 did not specifically set up a republic. Its existence was only established by implication, in the famous amendment moved by the Deputy Wallon. This became article 2 of the Act of 25th February, 1875, which included the words "The President of the Republic is elected by an absolute majority by the Senate and the Chamber sitting together as a National Assembly." There was thus to be a President of the Republic, and if there was a President of the Republic, there must be a Republic. The Wallon amendment was passed by one vote (three hundred and fifty three against three hundred and fifty two). This narrow majority marked the inevitable turning point in the debates of the Assembly, and the moment at which the Republic was constitutionally enacted. It may, however, be argued that the Republic had existed *de facto* since 1871.¹

¹ Two previous attempts to establish that the form of government should be republican had been defeated in 1875 by small majorities.

(ii) *The Constitutional Acts of 1875*

No "Constitution of 1875" was ever drawn up. The institutions of the Third Republic were enacted in three separate acts which were deemed to have constitutional force, though only one of them was formally entitled a "Constitutional Act". These acts were.

- (1) The "Act of 25th February, 1875, concerning the organisation of the Public Powers" ("relative à l'organisation des Pouvoirs publics") This outlined the form which the new institutions were to take
- (2) The "Act of 24th February, 1875, concerning the organisation of the Senate" ("relative à l'organisation du Sénat") This, though it preceded the first in time, was logically dependent on it. The greater part of it was deprived of constitutional character in 1884.
- (3) The "Constitutional Act of 16th July, 1875, on the relations between the Public Powers" ("sur les rapports des Pouvoirs publics") This added various details concerning the institutions set up by the first law

No declaration of rights, no statement of general principles was made. Nevertheless the rights and principles of the Constitution of 1791 were implicitly accepted. The exercise of national sovereignty by the people through their delegates was the basis of the new form of government. The three Powers were not, indeed, rigidly separated, but rather associated, as in 1848, but this was a contrast to their complete concentration in the person of the Emperor, and showed the influence of the doctrine of "separation".

The Legislature consisted of two houses. The Chamber of Deputies (*la Chambre des Députés*), the lower house, was chosen by universal manhood suffrage.¹ The electoral system was left to be the subject of an ordinary act, which, among other provisions, fixed the length of a parliament at four years (which remained the period throughout the Third Republic). Any elector aged twenty-five or over could be a Deputy. In the succeeding years various changes in the electoral system were made, by ordinary law, as described in Chapter IV. The number of Deputies remained always a little over six hundred. The upper house was again called the Senate (*le Sénat*), but took a new form. There were a total of three hundred Senators. On these two hundred and twenty-five were elected by the Departments through colleges (*collèges*) composed in each

¹ Women never received the vote under the Third Republic

Department of its Deputies, the members of its local government bodies (*conseillers généraux*) and of the local government bodies of the districts within it (*conseillers d'arrondissement*), and of delegates from the *communes*. The election of a Second Chamber to represent the local governments of the country—a “grand council of the *communes* of France” as Gambetta called it—was an innovation, but one which has survived. The Senators were appointed for nine years, one third of their number retiring every three years. The remaining seventy-five were appointed by the National Assembly for life; vacancies among them were filled, as they occurred, through appointments by the Senate itself. The appointment of Senators for life was done away with in 1884, after which the whole three hundred were elected in the Departments. No one might be a Senator until he was forty.¹

The legislative power was exercised concurrently by both Chambers, which meant that no bill could become law unless passed by both. Legislation could be initiated in either Chamber, by any Member or by the Government, but a financial bill must be presented first to the Chamber of Deputies. No sitting of either Chamber held outside the regular session of the whole Legislature was valid. This system of two Chambers with almost equal powers had previously been associated with monarchical rather than republican constitutions. Its adoption now was one of several important compromises which the Constitutional Acts of 1875 contained. The importance attached to the Senate was shown by the passing of the special Constitutional Act concerning it and reflected not only the strength of the monarchists in the Assembly, but also the predominant conservatism of the republican Deputies.

The titular head of the executive power was the President of the Republic. His position differed in several important points from that of the President of the Second Republic. He was not elected by the nation, but by the two Chambers sitting together as a National Assembly. It was unlikely that the Chambers would elect any dangerously ambitious person, and even if one was so elected, he would be unable to claim, as Napoleon III had done, that he represented the will of the people more directly than did the Legislature. The appointment was for seven years, with the possibility of re-election. Secondly the President, though he appointed the ministers, no

¹ Details of the methods of election to the two Chambers were laid down in two acts which, though called “Organic Acts”, were not considered of a constitutional character.

longer shared with them the responsibility for all the acts of government. Ministers alone had such responsibility. They were responsible before both Chambers, and might appear and speak in them, whereas the President might now only communicate with them by message. Effective control of the executive power was thus in the hands of ministers so long as they commanded a majority in the Chambers. The President was in reality a much restricted substitute for the constitutional monarch whom many members of the Assembly would have liked to have. He promulgated acts passed by the Chambers, and had various of the more formal attributes of royalty. His orders were not valid unless countersigned by a minister. He was only responsible to the Legislature in a matter of high treason.¹

The two Chambers met annually (on the second Tuesday in January) of their own right, in the republican tradition, in what came to be known as the Ordinary Session; but, as some compromise with monarchism, the President was given the right also to summon them if necessary for an Extra-Ordinary Session. He also closed the sessions, and might adjourn them for not longer than a month and not more than twice in the same session. He could also, with the agreement of the Senate, dissolve the Chamber of Deputies before the legal end of a legislature. This right, which might have been most important, was only once used (by President MacMahon in 1877) and was then allowed to lapse. Another theoretical right of the President, which was never used, was that of requiring a Fresh Deliberation on a bill sent to him for promulgation. The Chambers received the various safeguards which had by now become part of French democratic tradition—the right to sit either in public or in secret as they wished, the jurisdiction of disputed elections, the power to appoint their own officers and the Parliamentary Inviolability of their Members. The Legislature had also a final control over the Executive, in the power of the Chamber of Deputies to accuse a President of high treason, or a minister of a crime committed in the exercise of his functions, before the Senate constituted as a court of justice. The seat of government was at Versailles.

No mention of the position of the judicial power was made in the Constitutional Acts at all, except with regard to the nomination of the Council of State. It was, however, by now well established—and had been the case even under the Second

¹ In 1873 the Presidency had been entrusted to Marshal MacMahon for seven years. He continued in office till 1879, when the President was elected for the first time under the new Constitutional Acts.

Empire—that high judicial officers were appointed by the Executive, but that once appointed they could not be dismissed.

Revision of the Constitutional Acts might be proposed by a member of either Chamber or by the President. If both Chambers passed a resolution in favour of revision, they then met in joint sitting as the National Assembly, and discussed the revision proposed, which could only be passed if supported by the majority of the total membership of both Chambers. Three revisions of the Constitution were in fact made. In 1879 the seat of government was moved back to Paris. In 1884, much the most important occasion, it was enacted that no proposal to alter the republican form of government might be put forward and that members of families who had reigned over France were not eligible for the Presidency. It was also then that life-membership of the Senate was abolished. A minor revision was also made in 1926. On both the last two occasions the National Assembly met at Versailles, which had also become its traditional meeting place for the election of a President.

The melancholy end of the Third Republic, as a result of defeat in battle and foreign occupation, is a matter of recent history. On 22nd June, 1940, Marshal Pétain's Government signed an armistice with Germany. In July the two Chambers, which had previously withdrawn to Bordeaux, moved to Vichy. Here on 10th July, they held a joint meeting as a National Assembly, and passed, by five hundred and sixty-nine votes to eighty,¹ a resolution according the Government full power to promulgate a new constitution. This was done in the so-called "Constitutional Act of 10th July, 1940", elaborated later by a number of other "constitutional acts". An authoritarian state was set up. The Senate and Chamber were adjourned until further notice, and never met again. All the "constitutional" legislation of the Vichy Government was declared null and void by the Free French Provisional Government in its Ordinance of 9th August, 1944.

III. SUMMARY: THE DEVELOPMENT OF PARLIAMENTARY GOVERNMENT IN FRANCE

i. *Historical Survey*

The constitutional establishment of the Third Republic in 1875 is a good point from which to review the whole development of representative institutions in France. Behind, lie

¹ The total membership of the two houses was over nine hundred. A number of Deputies and Senators were thus absent.

eighty-six years of changes and experiments, during which France struggled in a number of different ways to solve what Professor D W Brogan recently described as "a political problem . as old as the *ancien régime*, how to create a Government strong enough to be solvent, capable of maintaining order and yet not too strong for liberty "¹ These endeavours had given birth to three main forms of government, each carrying certain traditional associations, which still play their part in the political life of France.

The first attempt to solve the problem, the Constitution of 1791, was largely a product of theory, particularly of the theory of the separation of the powers. When that Constitution broke down, both through its inherent weaknesses and because of the collapse of the executive power proper, there arose by force of circumstances, the first of the three traditional forms of government. This is the system of government by a single and all-powerful legislative body, in which all three powers are concentrated. It is part of the tradition of the extreme phases of the Revolution and has been held by its supporters to be the most democratic form of government possible in a large State, since it associates the electors most closely with all branches of government. It is connected particularly with the Convention, under which it was put into practice, and with the Constitution of 1793 which, if enforced, would have given it formal validity. Such a form of government is usually referred to as a *régime d'assemblée* or *régime conventionnel*.

The natural reaction to the kind of government experienced under the Convention was a fresh experiment with a rigid separation of the powers, embodied in the Constitution of 1795. Under this, the general disorder into which the country had fallen was confused still further by rivalry between the Executive and the Legislature. In consequence the nation was prepared to abrogate its sovereignty and to put all authority into the hands of a strong government, which, though at first nominally that of the three Consuls, was in fact from the start that of one man. Beneath the First Consul, and later the Emperor, the organs of the three powers were divided; but control of them was concentrated in one man. In particular, the ministers were responsible not to the Legislature but to the head of the State. This is the hall-mark of the second of the three main forms of government which have arisen in the course of French constitutional development. It was abandoned in 1815, but reintroduced in 1852, when the great Napoleon's

¹ *The Observer*, 16th January, 1949

nephew used his position as popularly elected president to persuade the nation once again to entrust all authority to one man. After Sedan, the imperial tradition was permanently discredited in France (though Bonapartism did not at once disappear). The idea of government through a supreme president, a *régime présidentiel* as it has come to be called, did not, however, cease to have its advocates. Under the Third Republic both President MacMahon, in 1877, and General Boulanger, in 1886-89, were suspected of wishing to establish such a form of government, and Marshal Pétain in fact did so, under German protection.

Meanwhile, however, there had come into being the third of the three forms of government, that of parliamentary government (*gouvernement parlementaire*). Under such a system the three powers are neither completely separated, nor concentrated. They are associated in a balanced collaboration. The characteristic of this collaboration is that, under a titular head of the State (whether constitutional monarch or president) the real executive power lies with a cabinet of ministers, who are, however, responsible to the Legislature (of which they are members) for their individual and collective actions—the system known in England as cabinet government.

In France, this form of government has also up to now always been characterised by a Parliament of two Chambers. It was, in fact, as has already been described, originally introduced in imitation of the British system. It appeared first, in a restricted form, in the Charter of 1814. The Charter of 1830 diminished the power of the Crown and increased that of the Chambers, and was regarded by its supporters as having produced the ideal form of liberal democracy. By 1848 the tradition of parliamentary government was well established in France. It might have continued to develop under the Constitution of that year had not that document also made it possible for the President to exercise a preponderant influence. It remained so strong beneath the surface of the Second Empire that, before his fall, Napoleon III had been forced to permit the re-establishment of parliamentary government. It was to this form of government that the constitution-makers of 1871-5, most of whom were either constitutional monarchists or conservative republicans, naturally turned.

Looking forward from this point, the historical observer sees first the sixty-five years of the Third Republic. The three Constitutional Acts of 1875 together make up the shortest constitution that France has ever had. It was the result of

political compromise, and omitted much. In spite of this short and fragmentary character—an Englishman might be inclined to say because of it—it lasted more than three times as long as any previous constitution. For the very looseness of its framework made it capable of transition. A constitution made by monarchists and conservatives was adapted without violence to the needs of increasingly left-wing majorities, culminating in the “popular front” victory of 1936. It gave France, a long period of democratic cabinet government, similar in many ways to that of England and certainly brought her nearer than under any other system to solving the ancient problem of finding a form of government strong enough, yet not too strong for liberty.

2. *The Position of the Senate in the Third Republic.*

Against the institutions of the Third Republic and the manner in which they were made to work, two main criticisms have been levied. The first of these consists of the accusation that too much power lay within the Senate, which was able to paralyse governments and to delay legislation. The Senate had been intended, by those who drew up the Constitutional Acts, to be a conservative, restraining force. The system under which it was elected was so framed as to give the inhabitants of the country and the small towns, who tended to be conservative, greater representation than those of the large towns, from which the more radical parties usually drew their support. The fixing of forty as the minimum age-limit for eligibility was again intended to confine membership to the more experienced and responsible politicians. The long duration of the Senator’s mandate as against that of the Deputy (nine years against four) and the fact that only one third of the Senate was renewed at a time, meant that the Senate was most unlikely to represent the latest currents of opinion. There can be no doubt that the Senate fulfilled the expectations of its makers, and was, throughout the history of the Third Republic, for better or worse, a retarding force.

Its power could be exercised in two main ways. In the first place, the Government was responsible to both Chambers. The Chamber of Deputies, indeed, as the directly elected Chamber, came to be regarded as the body which made or unmade Governments. The Senate, though it possessed an equal constitutional right in this respect, used it with great restraint, so that it was only on five occasions that a

Government fell because of defeat in the upper Chamber.¹ Nevertheless, the threat was there, and the fact that the balance of parties was seldom the same in the two Chambers, was an added complication to be faced by the Government in the difficult task of keeping its majority.

Secondly, the Senate and the Chamber possessed almost equal legislative rights. The Senate showed its independence not so much by downright rejection of bills brought from the Chamber, as by prolonged delay in discussing them, amounting in extreme cases to periods of several years. As a result a Government might have to accept unwelcome amendments to a bill, in order to secure its speedy passage through the Senate in an unsatisfactory form rather than not at all.²

Whether the possession by the Second Chamber of such power was good or bad is a matter on which French political opinion was and remains divided. The majority of the makers of the first draft Constitution of 1946 thought it had been wholly bad, and therefore excluded a Second Chamber from their proposals. The result of the referendum induced the makers of the second Constitution of that year to re-introduce one, though placed under great restraint. Debate upon the subject continues in the press of the Fourth Republic.

3. The Party System and the Instability of Governments

The criticism, however, which is most frequently made, at any rate by Englishmen, of the Third Republic is one that is in no way inherent in its Constitution. The Third Republic, it is asserted, was characterised by the continuous instability of its Governments. It cannot be denied that the assertion is true.³

This instability was a consequence of the large number of political parties among which the nation distributed its confidence. The two-party system provides the ideal conditions for the functioning of parliamentary government, and we in Britain are apt to assume that any democratic country which has not adopted it is simply in an earlier stage of development than we are. Yet the fact is that while Britain, and the United States, never really knew any other system than this, most democracies outside the British Commonwealth have never

¹ Indirectly, in April, 1896, and directly on 10th April, 1925, 4th December, 1930, 16th February, 1932, and 20th June, 1937.

² The whole legislative process could, of course, be carried through with great swiftness when both Chambers were in agreement.

³ From the beginning of 1871, to the fall of the Third Republic in 1940, France had a hundred and nine Governments (i.e., an average of about three Governments in every two years.)

shown any sign of adopting it. It is a matter of national temperament. The English, and some of the nations related to them, tend to divide politically into two main blocks. Most other civilized nations with parliamentary government prefer more precise divisions, based on a more exact analysis of their political differences. This has long been pre-eminently the case in France, and seems likely long to remain so. Moreover in France individual parties have as a rule had less cohesion and discipline within themselves than parties in this country generally have. A Member of the present National Assembly, M P.-O. Lapie, recently summed the matter up well in a letter to an English paper. "Do not believe", he wrote, "that the number of parties will be reduced by an electoral act; we tried that after the Liberation, we reduced the parties to three, and now we have blossomed out into a multiplicity of parties. It is because the Frenchman loves the fine shades (*les nuances*) of politics. . . . The English should not rebuke the French on this point, and they should accept successions of coalition governments as a fact of French life."¹

The existence of a number of different parties being thus given as a premise of French politics, it is unlikely that any party will ever have an absolute majority in even one of the Chambers. The formation of each Government is therefore not simply a matter of the President of the Republic entrusting the task to the leader of the largest party. It must be preceded by negotiations in which the politician who hopes to be Prime Minister endeavours to draft a policy which can be supported by a majority of Deputies. If he succeeds in doing this, his Government can only hope to hold office so long as it does nothing which will antagonise a proportion of its supporters large enough to put the Government in a minority by their defection. These were the normal conditions of politics in the Third Republic as they are under the Fourth. It is under such conditions that the different components of the French parliamentary machine, which are to be described in this book, were designed to work.

It is, however, generally admitted that the weaknesses entailed by such conditions were exaggerated by the constitutional practice of the Third Republic. The procedure of putting the Question of Confidence was certainly misused in

¹ From the *Sunday Times* of 23rd January, 1949. M Lapie, who had been closely associated with the Free French movement in London during the late war, was, at the time of writing this letter, President of the *Groupe d'amitié Parlementaire Franco-Britannique*, and a member of the Foreign Affairs Committee of the National Assembly.

the Chamber of Deputies. It became the custom that if the Government announced that it would treat the decision on any matter as a Question of Confidence and were then beaten in the subsequent vote, it should conclude that it no longer held the confidence of the Chamber and resign forthwith. Little restriction was imposed on the use of this far-reaching procedure. The Question of Confidence might be put by any minister, on any matter, at any time, and without warning. In February, 1924, for example, in the course of the discussion of a single bill, the Government put the question of confidence twenty-six times in six days.

The results to which this light-hearted practice might lead may be shown by one extreme example. On 26th March, 1924, the minister in charge of a bill relating to pensions announced to the Chamber of Deputies that he would treat the vote on one of the stages of the bill as a matter of confidence. The Government was defeated in an ordinary Vote by Open Ballot by two hundred and seventy-one card votes to two hundred and sixty-four, there being only about one hundred Deputies actually present. Those ministers who were in their places then left the chamber—the traditional signal that a Government is resigning. During these proceedings the Prime Minister, M. Poincaré, was appearing before a committee, and knew nothing of what was going on until the vote had taken place. His examination by the committee was then interrupted by the arrival of the news that his Government had resigned. Such practices clearly must have contributed to the instability of Governments. The Constitution makers of 1946 had no doubt on this point, and imposed stricter rules for the use of the Fourth Republic.

Could this instability have been remedied, or at least lessened, by more frequent use of the power of the President, on the advice of the Senate, to dissolve the Chamber? It is sometimes argued that it was a mistake to have allowed this power to lapse after 1877. It is, however, very understandable that this should have happened. Unfortunate memories were associated with its exercise. An attempt to dissolve the Chamber of Deputies in a manner questionably legal had cost Charles X his throne. Illegal dissolution of the National Assembly had helped Napoleon III to his. In 1877 itself the actions of President MacMahon, though technically correct, were a gross misuse of his position. He first designated a Prime Minister to form a Government from parties which were in a minority in the Chamber, but which he himself favoured. Then, with the Senate's support, he dissolved the

Chamber in the hope that a general election, in which the Government used all available means to put pressure on the electorate, would produce a majority of the kind he desired. This attempt was unsuccessful. It is not surprising, however, that later Presidents should have avoided proposing a dissolution of the Chamber.

In any case, it seems very doubtful if a more frequent dissolution of the Chamber would have contributed more to the stability of Governments. In a State where parties are few and large, there is usually ground for supposing that, after a period in which no one party has had an absolute majority, a fresh general election will remedy this position, as in Great Britain in 1924 and 1931. But where there are a large number of parties, none of which has an absolute majority, this is far less likely to happen. The drafters of the Constitution of the Fourth Republic evidently thought that under certain circumstances a dissolution of the First Chamber before the end of its mandate might be the solution to a situation in which the parties are so balanced that the formation of a Government with any authority has become impossible. Whether even that limited result can be achieved by dissolution in France remains to be seen.

The constitution-makers of the Fourth Republic were, it will thus be seen, to devote a considerable amount of attention to avoiding the acknowledged weakness of the Third. This very fact is an indication of how far the institutions of the latter had become, during the sixty-five years of their existence, the accepted framework of French government. A return to those institutions as such was, indeed, rejected by a large majority of the nation in 1946. The traditions and customs of parliamentary government which had grown up with that framework were not dead, however, and were not to be so easily disposed of. They still play a great and perhaps increasing part in the working of French democracy.

Chapter Two

THE PARLIAMENT OF THE FOURTH REPUBLIC

I. THE ORIGINS OF THE FOURTH REPUBLIC

1. The Reconstruction of the Republic

IN ITS Ordinance of 9th August, 1944, the Provisional Government under General de Gaulle declared that "The form of the Government of France is and remains that of the Republic. In law this has not ceased to exist." The Fourth Republic thus stands legally upon the site of its war-destroyed predecessor.

The foundation of the long work of reconstruction was laid on 18th June, 1940. On that day General de Gaulle made from London his famous proclamation, calling upon all Frenchmen to continue the struggle and to rally to him. On 7th August he signed an agreement with the British Government concerning the raising of a Free French force. He took the title of Head of the Free French (*Chef des Français Libres*) and on 27th October issued his first Ordinance (*Ordonnance*), at Brazzaville in French Equatorial Africa. This laid down the basis of the legal organisation of Free France "for as long as a French Government and representation of the French people cannot be constituted regularly and independently of the enemy". A Council for the Defence of the Empire (*Conseil de Défense de l'Empire*) was set up.

From this beginning the Government of Free France was gradually expanded and transformed. On 24th September, 1941, it was re-organised as a National Committee (*Comité National*), presided over by General de Gaulle. On 3rd June, 1943, as a result of negotiations between General de Gaulle and General Giraud, this was replaced by the French Committee of National Liberation (*Comité français de la Libération nationale*). This was to be the "central and unique French authority" and was established at Algiers. Exactly a year later, just before the Allied landings in Normandy, this Committee took the title of Provisional Government of the French Republic (*Gouvernement provisoire de la République française*).

By the summer of 1943 French resistance had been sufficiently organised for the formation of a deliberative Assembly to become both possible and desirable. Such a body could not, under the circumstances, be fully representative, and therefore it was not given decisive powers. Its functions were to advise the National Committee, and later the Provisional Government, and to keep them in touch with the rank and file of the resistance movements. It was given the title of Provisional Consultative Assembly (*Assemblée Consultative Provisoire*), and held its first meeting on 3rd November, 1943, at Algiers. It had originally 102 members. Forty-nine of them were appointed by the National Council of the French Resistance from among delegates sent from France itself by the various underground organisations. Many of these came and went between Algiers and occupied France, and in this way the Assembly was kept closely in touch with the battle-ground of resistance itself. Another twenty-one members were appointed, by the delegates from France, from the resistance organisations in French overseas territories. Such members of the former Chamber of Deputies and the Senate as were outside occupied France elected another twenty members from among their number. Finally twelve members were appointed to represent the local government bodies of liberated territories. Arrangements were made to increase their number as necessary, including provision for the election of representatives in each Department of France as soon as it was liberated. This did not eventually prove practicable. On 11th October, 1944, the number was increased to 248, to be distributed and appointed in much the same way as the original 102. On 22nd June, 1945, a further forty-eight members were added, to represent former prisoners-of-war. The Assembly had by that time moved to France, its first meeting there having been held on 7th November, 1944, in the Luxembourg Palace.

On the liberation of France the Provisional Government became, and was generally accepted as, the *de facto* Government of France. It was clearly necessary, however, that as soon as possible a government supported by the vote of the nation should be set up, and a normal constitutional regime once more established. Two courses were open to the country—either to return to the Constitutional Acts of 1875, or to give itself a new Constitution. The Provisional Government therefore held a general election, combined with a referendum, on 21st October, 1945. Question (1) of the referendum was "Do you wish that the Assembly elected today shall be

constituent?" Had the answer to this been "No", the Constitutional Acts of 1875 would have remained in force, the new Assembly becoming the Chamber of Deputies. In fact 18,584,746 persons voted "yes", and only 699,136 "no". The new Assembly was therefore to draw up a fresh Constitution. While it was engaged on this, there would be an interim period, during which it was desirable to give legal standing to the Government. The Provisional Government had prepared a draft bill to meet this situation, and Question (2) of the Referendum asked "Do you agree that, until the coming into force of the new Constitution, the public powers shall be organised in accordance with the provisions of the bill set out on the back of this voting-paper?" To this 12,795,213 answered "yes", and 6,449,206 "no". The bill was therefore promulgated as law on 21st November, 1945, and formed the legal basis of the first Constituent Assembly. It provided that if the Constitution now to be drafted was rejected by the nation, or if a Constitution was not prepared within seven months, a new Constituent Assembly should be elected.

The Constituent Assembly met for the first time on 6th November, 1945, in the Palais Bourbon. A draft Constitution, prepared in a Constitutional Committee (*Commission de la Constitution*) and debated line by line in the Assembly itself, was submitted to a referendum on 5th May, 1946. It was rejected, by 10,584,359 votes to 9,454,034. A second Constituent Assembly was therefore elected, on 2nd June, 1946. It prepared a fresh draft Constitution and was dissolved on 5th October. The new Constitution was accepted at a further referendum on 13th October, 1946, by 9,297,470 votes to 8,165,459. It was promulgated as the Constitutional Act of 27th October, 1946, at the same time as certain so-called Organic Acts (not part of the Constitution) which the Constituent Assembly had passed. On this day, therefore, the Fourth Republic came into being. The two Chambers of the new Legislature, the National Assembly and the Council of the Republic, met for the first time on 28th November and 24th December, 1946, respectively.

2 *The Drafting of the Constitution*

A number of draft constitutions were put before the Constitutional Committees of the two Constituent Assemblies of 1945-46. Certain of the proposals contained in them ranged well away from the traditions of parliamentary government, some in the direction of the *régime présidentiel*, some in that of

the *régime conventionnel*. The two Committees, however, came to very similar conclusions as to the general nature of the form which the new institutions should take. A presidential regime had always, in France, led rapidly to the personal rule of an individual, it was connected notably with the names of Napoleon III and Pétain, and was out of the question. To the partisans of a presidential system similar to that of the United States, it was pointed out how great was the difference in the past history and the present political circumstances of the two countries. In particular, France was not a federal but a closely unified state. Further, in France, with its large number of parties, a politically active President would almost invariably represent only a minority of the electorate. A *régime conventionnel*, however, was equally undesirable. It was, in fact, really another form of dictatorship—the dictatorship of the majority. It was suitable to a revolutionary period, when the State was in mortal danger and the supreme need was for the concentration of all authority. In 1946, however, what France needed was not revolutionary but constitutional government. There remained only one solution possible in France, a parliamentary regime.¹

It was, therefore, the question of how best to establish such a regime that formed the main subject of controversy in the two Assemblies. The final solution was the result of political compromise on many points between the three large parties which, in this period and for a time under the Fourth Republic itself, collaborated to support the Government.² This partnership was subject to severe strain at times, and during the first Constituent Assembly broke down completely. In neither Assembly was complete agreement ever reached. The first draft Constitution was finally adopted on 19th April, 1946, by 309 votes to 249. The second was adopted on 28th September, by 440 votes to 106.³

The starting point for the deliberations of the first Constitutional Committee was the referendum of 25th October, 1945.

¹ These general considerations were set out in the Supplementary Report, document No 885, of the Constitutional Committee of the first Assembly, and in the main Report, document No II-350, of that of the second Assembly. Much of the argument used in the first document was embodied in the second.

² The contributions made to this compromise in the form of concessions in political theory are reflected in the Preamble to the present Constitution. See the analysis of this in R. Malézieux and J. Rousseau, *La Constitution de la IV^e République* (Paris, 1947), pp. 18-23.

³ The Communists and the Socialists voted for the final draft on the first occasion, and the M.R.P. against. On the second occasion all the "big three" parties supported the draft at the final division.

This had shown that the country did not want to return to the constitutional arrangements of the Third Republic. The Committee considered that the worst fault of that regime, so far as the central Government was concerned, had been the excessive power of the Senate. It therefore proposed for the Fourth Republic what its report called "a representative regime based on a National Assembly". As finally drawn up, the Constitution of April 1946 centred on a legislative body of one Chamber only, called the National Assembly. As nominal checks to the power of this Assembly there were to be, in place of a Second Chamber, two "consultative organs", the Economic Council (*le conseil économique*) and the Council of the French Union (*le Conseil de l'Union française*). Each of these bodies could consider certain types of bills introduced into the Assembly, and give its opinion on them, but such advice was in no way binding upon the Assembly, with which alone the power of decision rested. The Prime Minister was to be chosen by the Assembly and, when chosen, to be nominated by decree of the President of the Republic. The Assembly could pronounce its own dissolution by resolution, provided this was supported by the votes of two-thirds of the Deputies. In the second half of a legislature (the length of which was to be five years) a dissolution might also be pronounced by the President, as a result of a Cabinet decision, if two Governments had fallen as a result of defeat in the Assembly within one session.

This Constitution seemed likely to give the single Chamber of the Legislature a very considerable measure of control over the Executive. Many of its critics, indeed, contended that although the regime which it embodied was claimed to be parliamentary, it was in truth nearer to the *conventionnel*. The majority of the second Constitutional Committee considered that this criticism had played a considerable part in leading a majority of the voters to reject the April Constitution. They therefore proposed to amend its text (which was taken as the basis of the Committee's deliberations) by introducing a Second Chamber as part of the Legislature itself. The chief new proposal made in the second Constitution was in fact the setting up of a Legislature of two Chambers, with no power to dissolve itself wholly or in part. This was to be called Parliament (*le Parlement*), the two Chambers being known as the National Assembly and the Council of the Republic (*le Conseil de la République*). The two consultative bodies of the first Constitution were retained for their intrinsic usefulness rather than as substitutes for a Second Chamber. They were not to be part of

Parliament. The Assembly (as it was now called) of the French Union lost the right, which it would have had under the April Constitution, of demanding that a bill be referred to it, and it was placed more closely under the control of the Legislature, by which its metropolitan members were to be elected (instead of by the local government bodies). The independence of the Executive was slightly increased, in that a new Prime Minister was now to be first designated for his office by the President of the Republic, and only after such designation to seek the confidence of the Assembly. The office of President was itself given a small accession of dignity, the prerogative of mercy (*le droit de grâce*), which traditionally belonged to the Head of the State, but which the April Constitution had invested in the Higher Council of the Magistracy, was now to be exercised by the President in that Council, two members of which he was to nominate.

In other respects the contents of the Constitution now in force do not differ greatly from that of the rejected April Constitution, though there is considerable difference in the arrangement of the matter in the two documents. In particular, the new Declaration of the Rights of Man, which, following the precedents of the Revolutionary Constitutions of 1791, 1793 and 1795, had been prefixed to the first Constitution, was not included in the second, instead the general principles of French democracy are set out in a Preamble.

The present Constitution of the French Republic was finally embodied in the Constitutional Act (*loi constitutionnelle*) of 27th October, 1946. This is a document of some 6,000 words (including the Preamble and the Transitional Provisions), divided into nine chapters (*titres*) and 106 articles.¹ A number of consequential but important details, concerning the composition, setting-up and competence of the various bodies brought into being by the Constitution, were left to be enacted by ordinary law, or by resolution of one or other of the Chambers of the new regime. These acts and resolutions are referred to in the appropriate passages below. The acts containing such

¹ The headings of the nine chapters are I Sovereignty (arts. 1 to 4), II Parliament (arts. 5 to 24), III The Economic Council (art. 25), IV Diplomatic Treaties (arts. 26 to 28), V. The President of the Republic (arts. 29 to 44), VI The Cabinet (arts. 45 to 55), VII The Penal Responsibility of Ministers (arts. 56 to 59), VIII The French Union (arts. 60 to 82), IX The Higher Council of the Judiciary (arts. 83 and 84), X. Local Government Areas (arts. 85 to 89), XI. Revision of the Constitution (arts. 90 to 95), and XII Transitional Provisions (arts. 96 to 106). The last chapter lays down the procedure to be followed in the transitional period between the promulgation of the Constitution and the completion of all consequential arrangements

provisions are known as Organic Acts, to mark their importance. They are not, however, part of the Constitution Amendment of them does not entail constitutional revision, but may be enacted simply by the passing of a new law¹

II. THE STATUS AND COMPOSITION OF PARLIAMENT

1. *National Sovereignty*

"National Sovereignty belongs to the French people. No section of the people, nor any individual, may assume the exercise of it. The people exercises this sovereignty in constitutional matters through the votes of its Representatives and by referendum. In all other matters, it exercises it through its Deputies in the National Assembly, directly and secretly elected, under a system of universal and equal suffrage." Such is the definition of sovereignty contained in article 3 of the Constitution, in words little different from those of the Constitution of 1791. It is the classical conception of sovereignty in French democratic tradition—sovereignty resident in the whole people, but, except in the special case of constitutional revision, exercised not directly but by delegation. All Frenchmen and Frenchwomen who are of age and who have not lost their rights of citizenship have the vote (art 4). The words "Representatives" and "Deputies" are not synonymous. The latter, as the text shows, means the members of the National Assembly only. The former includes both the members of that Chamber and also those of the Council of the Republic. It is thus clear from the start that the status of the two Chambers is very unequal. The National Assembly is named alone as, in all ordinary matters, the only repository of the delegated power of the people.

2 *The Two Chambers*

"Parliament is composed of the National Assembly and the Council of the Republic" (art. 5). Each Chamber is to be elected on a territorial basis—that is to say, constituencies are to consist of areas of territory. No person may be a member of

¹ These Acts were the following (i) Act No 46-2383 "on the composition and election of the Council of the Republic", this was amended to a small extract by Act No 47-25 of 7th January, 1947, and has now been superseded by the ordinary Act No 48-1471 of 23rd September, 1948 (see pp 252—5) (ii) Act No 46-2384 "concerning the composition and working of the Economic Council." (iii) Act No 46-2385 "on the composition and election of the Assembly of the French Union" (iv) Act No 46-2386 "on the constitution and procedure of the High Court of Justice".

both Chambers at the same time. The period for which each Chamber is to be elected, the details of the electoral system and procedure, and the rules covering the eligibility of persons to be candidates and members, are left to be determined by law (art. 6), and the manner in which they have for the present been decided will be described in due course.¹ The Constitution, however, in the same article, lays down general principles for the election and composition of each.

The National Assembly is to be elected directly—that is, by the votes of the electors themselves. The number of Deputies is not determined by the Constitution. There is thus no difference in these two respects, between the constitutional position of the Assembly and that of the old Chamber of Deputies.

The Council of the Republic is to be elected indirectly through the local government units of the *communes* and the Departments (*les collectivités communales et départementales*). A certain number of members of the Council, however, up to one sixth of the total, may be chosen by the Assembly, to represent the political parties in proportion to their numbers in the latter. The number of Members of the Council is constitutionally fixed at between 250 and 320. Thus, again, both the method of election and the size of the Council are in general similar to those of the Senate of the Third Republic. The Council is to be renewed half at a time, though the first Council was wholly renewed in 1948 (under art. 102).

The rights traditionally associated in France with a democratic parliamentary assembly are assured by the Constitution to both Chambers. Each is the sole judge of the eligibility of its own members, and of the regularity of their election, and can alone accept their resignation (art. 8). Each is normally to sit in public, but is entitled to form itself into a Secret Committee (*comité secret*). The Verbatim Reports of debates in both Chambers and other parliamentary documents are to be published in the Official Journal (*le Journal officiel*) (art. 10). Each is to choose its own Bureau annually, by proportional representation (art. 11). Members of each Chamber are guaranteed the traditional Parliamentary Immunity to arrest and prosecution (arts. 21 and 22). They have a constitutional right to receive a salary (art. 23).

The equal enjoyment of these rights does little, however, to

¹ Under present law the Assembly has been elected for five years (see Chapter IV), and the Council for six years, half of its members being re-elected every three years (see Chapter XI).

smooth out the fundamental inequality in the status of the two Chambers—an inequality which inevitably follows from the investment of full delegated sovereignty in the Assembly alone. The most general manifestation of this inequality is the provision that the Council can only sit at such time as the Assembly sits (art. 9). Formally it is marked in two ways. When the two Chambers meet together to elect the President of the Republic, the Bureau of Parliament is that of the Assembly (art. 11), and when the President of the Republic wishes to communicate with Parliament, he addresses himself to the Assembly alone (art. 37). These two dispositions also underline the lower position of the Council in comparison with that of the former Senate. The full extent of this inequality will be seen when the legislative power of the two Chambers, and their respective relationship to the Executive, are described.

3. *The Consultative Bodies*

Two other elected bodies, originally included in the first draft Constitution as checks upon the National Assembly, were, as already described, retained in the present Constitution on their own merits. These are the Economic Council (*le Conseil économique*) and the Assembly of the French Union (*l'Assemblée de l'Union française*). Neither is a part of Parliament, but each has a special relationship to it.

The Economic Council¹ may consider and report upon bills submitted to it by the National Assembly, or by one of the latter's committees. It may also of its own right examine all bills of an economic or social character (excluding the Budget Bill), and all international economic or financial conventions which have been submitted for the approval of the Assembly. Members of both Chambers can attend meetings of the Council, and the Presidents and Reporters of their committees can attend the committees of the Council. The Council is purely advisory, and its reports do not in any way bind the Assembly. It has also certain other functions not directly connected with the Assembly.

The Assembly of the French Union² is intended to represent mainland France herself, her overseas departments and her colonies, and all other States which, in various ways, are associated with her in what is now known as the French Union.

¹ See the Organic Act of 27th October, 1946, "on the composition and working of the Economic Council", which elaborates the very brief details of article 25 of the Constitution.

² Constitution, arts 63 to 72

It contains not more than 240 members, of whom half represent mainland France (two-thirds of these being elected by the National Assembly and one-third by the Council of the Republic), and half all overseas departments and territories and associated States. Its functions are to advise on bills referred to it by the National Assembly, or by the Government of France or that of an associated State, and to consider motions proposed by its members relating to legislation in the overseas territories. Its resolutions may be transmitted to the National Assembly but do not have any binding effect upon it. It can also make proposals to the French Government and to the High Council of the French Union. Its consent empowers the President, on the Government's behalf, to make certain decrees concerning individual overseas territories. It can only sit during the sessions of Parliament.

III PARLIAMENT AND LEGISLATION

i. *The Legislative Process*

“The National Assembly alone votes the law” (art. 13). The Council of the Republic has its own part to play in the process of legislation, but it is at no point a decisive part. Legislation may be initiated either by the Government or by private members of either Chamber (art 14). Government bills, and bills introduced by private members of the Assembly, are presented by being laid upon the Table of the Assembly. Bills introduced by private members of the Council are laid upon the Table of that Chamber, and transmitted without debate to the Assembly (art. 14).

Thus the consideration of every bill begins in the Assembly no matter in which Chamber it has been introduced. The successive steps in this consideration are a matter of procedure, and are described at length in Chapter VIII. It should be noted, however, that the Constitution (art 15) recognizes the principle that bills should be subjected to detailed study in committee, and implies the right of the Assembly to set up a system of permanent committees¹. The proceedings in the Assembly, in committee and in the Chamber, from the introduction of the bill to the vote upon its whole text, are known as the First Reading (*première lecture*).

After First Reading, a bill is at once transmitted to the Council, which examines it in an advisory capacity (*pour avis*).

¹ See Chapter VII

It is then submitted to a series of proceedings in that Chamber similar to those used by the Assembly. The Council then sends to the Assembly an Advisory Report (*avis*) in which it may propose amendments to the bill, or its complete rejection. A report which proposes no amendments is known as a "report in agreement" (*un avis conforme*), one which does make any other proposals as a "report in disagreement" (*un avis non conforme*). The Council must make its Advisory Report within two months of the transmission of the bill to it. This period may be reduced by the Assembly in the case of the Budget Bill and of bills for which a special procedure of urgency has been used; it may also be prolonged by the Assembly. If the Council does not make its Advisory Report within the appropriate time limit, it ceases to have any further rights in connection with the bill, which is promulgated as law in the text voted by the Assembly.

When the Council makes an Advisory Report "in agreement", no further parliamentary action is necessary upon the bill, which is ready for promulgation. When, however, the report is "in disagreement", the Assembly must again examine the bill, in committee and in the Chamber, in Second Reading (*seconde lecture*). It decides "finally and authoritatively" (*definitivement et souverainement*) upon these amendments, being free to reject or accept them, wholly or in part. If, however, at the Vote on the Whole Bill in the Council, the decision of that Chamber has been expressed by an absolute majority of its whole membership, a similar majority is required to validate the corresponding vote at the end of Second Reading in the Assembly.¹

This legislative process is very different from that used under the Third Republic, in which each Chamber had almost the same rights. Now, it is the First Chamber which begins and completes the process. The work of the Council might appear to amount to little more than a comment upon that of the Assembly. In the concluding section of this chapter something will be said as to how this system has so far worked in practice.

The promulgation of bills as law is a constitutional function of the President of the Republic.

2. *Financial Legislation*

Special constitutional provisions apply to legislation of a financial character. The tradition that the Budget Bill should be introduced in the lower Chamber is enshrined in the

¹ Const., art 20

declaration that "the Budget Bill is laid before the National Assembly" (art. 16)—though, under the present constitutional provisions as to legislation generally, no other course of action could be followed by the Government. The Budget Bill must contain only strictly financial matter. Rules as to its form are to be laid down in an Organic Act, which has still to be passed (art. 16).

All members of the Assembly may make proposals involving expenditure, except in the form of amendments to the Budget Bill, or to certain other purely financial kinds of bill providing for expenditure in anticipation of or supplementary to that included in the Budget Bill (art. 17). The extent to which this right is in practice exercised and controlled is described in Chapter IX. Members of the Council have no such right, and it is specifically laid down that no bill promoted by a Member of the Council may be received by the Assembly, if it would cause a reduction of receipts or the creation of expenditure (art. 14). Within certain limits, however, members of the Council may make proposals for the raising of additional revenue—a right which was not possessed by the Senators of the Third Republic.

The control of the national accounts is also confided under the Constitution to the Assembly alone, and it is only to that Chamber that the Court of Accounts is directed to give assistance (art. 18). The Council, however, will be able to consider in its advisory capacity the periodical Accounts Bills, in the course of the normal legislative procedure.

3. *Delegated Legislation*

The procedure known as delegated legislation—that is, the granting to ministers, by Act of Parliament, of the right to make orders, regulations, etc., with the force of law in relation to matters defined in the Act—has always been far less used in France than in Great Britain. French legal theory makes a distinction between the legislative power possessed by Parliament, and the rule-making power (*le pouvoir réglementaire*), which is held to be inherent in the Executive. By virtue of the latter power Governments and ministers have made, since the revolutionary epoch, and continue to make, many administrative edicts having the force of law. These are known, according to their nature, as regulations of public administration (*réglements d'administration publique*), decrees (*décrets*) or orders (*arrêtés*). The principle that the Legislature may, by act, transfer a field of activity from the province of the legislative

to that of the rule-making power was admitted under the Third Republic, but its practice was never popular with supporters of parliamentary government. It is arguable that the second sentence of article 13 of the Constitution, which forbids the National Assembly to delegate its sole right to vote the law, now makes any such transfer of power illegal. One such transfer has, however, been made, under Act No. 48-1263 of 17th August, 1948, "for the promotion of economic and financial recovery".

Since this form of delegation is regarded as a transfer of power from Legislature to Executive, it does not normally entail the need for the ratification by Parliament of any consequent administrative edicts. Such a procedure, so well known in this country, was employed, however, under certain acts passed between 1924 and 1939. These entitled the Government to enact measures of a certain kind by decrees, which had to be submitted for ratification by Parliament within a stated time. Such decrees were submitted to Parliament as bills, and became known as decree-acts (*décrets-lois*). The purpose of using this procedure was to enable urgent measures to be enacted more speedily than was possible by normal legislation, in the parliamentary circumstances of the time. It was consequently considered by some critics as dictatorial, and has not so far been used under the Fourth Republic.¹

IV. PARLIAMENT AND THE EXECUTIVE

1. *The Nature of the Executive*

The representative and ceremonial head of the state is the President of the Republic, who is also President of the French Union (art. 64). Under the Third Republic, it will be remembered, the office of President was instituted as a substitute for that of constitutional monarch, which it was found impossible to fill. It still has a few of the traditional attributes of kingship. It is the President who appoints and accredits the ambassadors of France and it is to him that foreign ambassadors present their credentials (art. 31). He also appoints certain other important non-political officials (art. 30), signs and ratifies treaties (art. 31), and exercises the prerogative of mercy (art. 35). He is the nominal head of the armed forces, with the title of Chief of the Armies (*Chef des armées*), and

¹ On the subject of the "rule-making power" and the various legal questions connected with it, see Maurice Hauriou, "*Brisé de Droit Constitutionnel*", Paris, 1929, pp. 442-456.

presides over the Higher Council and Committee of National Defence (art. 33). Two new functions are also now his. He presides over the Higher Council of the Magistracy (*le Conseil supérieur de la magistrature*) (art. 34), and thus to some extent can supervise the administration of justice. He also presides over the Constitutional Committee (art. 91), a position of some potential influence. The position of President is incompatible with the enjoyment of any other office (art. 43), except, of course, that of President of the French Union, which it carries with it. Nor may it be held by a member of a family which has reigned in France (art. 44), a provision which continues the similar prohibition enacted in the constitutional revision of 1884.

The duty of carrying on the work of government belongs, of course, to the Prime Minister and the ministers under him. This follows from article 47, which lays down that "The Prime Minister assures that the laws are carried into effect" and gives him the effective control of the Civil Service and the armed forces, and of article 48, which makes the Cabinet responsible to the National Assembly, the representative of national sovereignty. The number of ministers is not limited constitutionally. It is usual for the majority of them to be in charge of Departments of State, but the appointment of a minister or ministers without portfolio is also a normal occurrence. The ministers together form the Council of Ministers (*le Conseil des Ministres*), which is equivalent to our Cabinet, and is sometimes also called *le Cabinet*. The leader of the Government holds the official position and title of President of the Council (*Président du Conseil*). This position is equivalent to that of Prime Minister and its holder is sometimes referred to colloquially, though not officially, as *le Premier Ministre*.

The relationship of the President of the Republic to the Government was well summed up by M. Coste-Floret, General Reporter of the Constitutional Committee of the second Constituent Assembly. The President, he said, is intended to be "the umpire of the political parties" and "the interpreter of the permanent and immutable interests of the State".¹ He presides over Cabinet meetings, as an impartial chairman, and is responsible for keeping the minutes of such meetings and ensuring their preservation (art. 32). Every decree or other order issued by him must be countersigned by the Prime Minister and one other minister (art. 38).

¹ V R of second Constituent Assembly, 20th August, 1946, p 3187

2 *The Independent Position of Parliament*

Parliament is not dependent on the Executive, even nominally, for permission to meet. The Constitution requires of the Assembly a minimum period of sitting, and leaves it free to extend this. The Council, though dependent on the Assembly in this respect, is consequently also independent of the Executive. The Assembly is, of right, to open its annual session on the second Tuesday in January. It must sit for at least eight months in the year, though adjournments of not more than ten days may be included in this period (art. 9). Parliament can be recalled before the end of an adjournment by the Bureau of the Assembly and must be so recalled on the demand of one-third of the Deputies. The Prime Minister, however, also has the right to require the Bureau of the Assembly to take such action (art. 12).¹ The President of the Republic has no power, as he had under the Third Republic, to convoke Parliament for an Extra-Ordinary Session² or to adjourn either Chamber. Parliament is left free, in the silence of the Constitution, to close the session when it wishes. Since the session is annual, it should consequently be closed by the end of the year in which it opened. In practice, the necessity of passing the Budget Bill before the end of the year often leads to the fiction of stopping the clock just before midnight on 31st December and continuing the session, sometimes for several days, into the new year (as described in Chapter IX).

The period during which the Deputies elected to the National Assembly at one election enjoy their mandates, and at the end of which they must be replaced by those elected at the following election, is known as a Legislature (*une législature*). The length of a Legislature is at present fixed by the electoral act of 1946 at five years. The normal procedure for bringing to an end one Legislature, and beginning the next is not provided for in the Constitution, but is fixed partly by tradition, partly by ordinary law.³ The present National Assembly was elected on 10th November, 1946, and the First Legislature of the Fourth Republic began on that day. If the tradition of the Third Republic is followed, the powers of the present Assembly will,

¹ After the fall of a Government it is usual, by long-standing practice, for the Assembly to leave it to its President to fix the day and time of the next sitting, which is normally arranged for the earliest moment at which the new Prime Minister Designate will be ready to face the Assembly.

² Parliament can itself hold an Extra-Ordinary Session, if it is found necessary to meet between the close of the annual session and the second Tuesday in January. Such sessions were held in 1947 and 1950.

³ See Pieille (see p. 75), §§ 306-7.

in the normal course of events, expire on^{9th} November, 1951. A new Assembly will have been elected before this date, but its mandate will not begin until the following day, 10th November, 1951, on which date the Second Legislature of the Fourth Republic will begin. Thereafter each succeeding Legislature will (unless a dissolution has occurred) date from the day following the end of its predecessor. The first Assembly under the Fourth Republic met of right on the third Thursday after the elections, under article 98 of the Constitution. The dates on which its successors hold their first meetings will presumably be decided by the act or acts governing their respective elections.

The manner in which the powers of half the members of the Council of the Republic are brought to an end, when the time for partial renewal of that Chamber arrives, is also a matter left to ordinary law, and is described in Chapter XI. The first Council sat of right, under article 98 of the Constitution, on the third Tuesday after its election. Thereafter all its sittings have been, and remain, subject only to the constitutional provision that it is to sit at the same time as the National Assembly.

Thus the normal ending of a Legislature, or of the powers of that half of the members of the Council whose mandates have expired, are processes governed by custom and by ordinary law, and do not entail a dissolution of either Chamber. Parliament is free to alter the procedure in either case, and is in this respect entirely independent of the Executive.

This independence is, however, partially curtailed by the constitutional provisions regarding dissolution of the Assembly (arts. 51 and 52). In the first place, the Assembly cannot dissolve itself. No dissolution can take place at all in the first eighteen months of a Legislature. After that, in certain restricted circumstances of governmental instability (which are described on page 61), the Government may, after consulting the President of the Assembly, decide upon the dissolution of that Chamber before the due end of the Legislature, and the dissolution is then to be proclaimed by the President of the Republic. It remains within the power of the Assembly to see that these conditions are never fulfilled. A general election must be held not less than twenty nor more than thirty days after such a dissolution, and the new Assembly is to meet of its own right on the third Thursday after the election. In such a case the mandates of the members of the dissolved Assembly would cease at its dissolution, and those

of the newly elected Deputies would begin on the day of the election¹. No provision has been made for dissolving the Council, either wholly or in part, nor is any such provision necessary or suitable, since the Government does not need to have a majority in that Chamber. Nor is the advice of the Council required to be given before the dissolution of the First Chamber, as that of the Senate was required under the Third Republic.

3. *Parliament and the President of the Republic*

The President of the Republic is elected by Parliament. His term of office is seven years, and he can be re-elected once (art. 29). The election of a new President must take place not sooner than fifteen nor later than thirty days before the expiration of this term (art. 39). If, however, this last event occurs when the Assembly is dissolved, the powers of the retiring President are continued until the election of his successor, which must be held within ten days after the election of the new Assembly (art. 40). If the office of President becomes vacant before the end of a seven-year term, through the death, retirement or incapability of the holder, or for any other reason, its functions are to be provisionally performed by the President of the Assembly. A new President must then be elected within ten days (art. 41).

No procedure for the election of the President is mentioned in the Constitution. For that of the first President, on 16th January, 1947, the custom of the Third Republic, of holding the joint meeting of the Chambers at Versailles, was followed once more. The meeting of Parliament was convoked by the Bureau of the National Assembly. On the proposal of that Bureau (acting as the Bureau of Parliament) and of the party leaders in both Chambers, the voting was carried out by secret ballot, an absolute majority of votes being required to validate the election of any candidate. At the first ballot, M. Vincent Auriol received an absolute majority. After the result had been announced, and the Minutes agreed to, the one-day session of the whole Parliament was closed.²

The President of the Republic thus receives his office at the hands of Parliament. He may communicate with Parliament,

¹ Under the Third Republic it was considered that, when an electoral system involving two ballots was employed, the mandates of the new Deputies would run from the day of the first ballot (Pierre, § 306).

² See Verbatim Report (Official Journal, Parliamentary Debates series 1947, No. 2).

by means of messages addressed to the Assembly, but he cannot exercise much official influence upon its actions. It is his duty to issue the formal promulgation of bills as law, duly countersigned, as all his acts must be, by the Prime Minister and one other Minister. He must do this within ten days of the passing of each bill by Parliament, the period being reduced to five days in a case declared urgent by the Assembly. Within the appropriate time limit, he may ask that a Fresh Deliberation (*nouvelle délibération*) be held upon the bill, and Parliament cannot refuse such a request. This right, which was never used under the Third Republic, has been exercised twice already under the Fourth in special circumstances, as described in Chapter VIII. If the President fails to promulgate a bill within the period laid down, it is the duty of the President of the Assembly to do so (art 36).

The President of the Republic is not responsible to any person or body in the state, except in the case of alleged High Treason (*haute trahison*) on his part. If the Assembly is prepared to accuse him of this crime, it may send him for trial before the High Court of Justice, which is mainly composed of members of the Assembly (as described below, p 62). It is also implied by article 41 that Parliament may, by a joint vote, declare a President to be prevented from fulfilling his functions (presumably in a case of physical or mental incapacity).

4. *Parliament and the Government*

(1) The General Position

The basis of the relationship between Parliament and the Government is article 48 of the Constitution, which lays down that "Ministers are responsible to the National Assembly, collectively for the general policy of the Cabinet, and individually for their personal actions. They are not responsible to the Council of the Republic." This is perhaps the most important article in the Constitution. The responsibility of the Cabinet to the elected representatives of the nation is generally held to be an essential characteristic of parliamentary government. As the second Constitutional Committee pointed out, it is this feature which, in French history, mainly differentiates the parliamentary from the presidential régime, in which ministers are responsible to the head of the State. This is far from being a purely theoretical distinction, for France had in 1946 only recently emerged from what the Committee called

"the pseudo-government of Vichy", in which ministers and other heads of departments had been responsible only to Marshall Petain.¹ Article 48 thus expressed the whole principle upon which the parliamentary government of the Fourth Republic is intended to work. Its second sentence marks the difference between the new Constitution and that of the Third Republic, in which ministers were responsible to the Senate as well as the Chamber of Deputies. The whole of article 48 is the logical consequence of article 3, under which the people delegate their sovereignty in all but constitutional matters to the National Assembly alone.

The Constitution does not require that the Prime Minister or any member of the Government shall have a seat in either Chamber. It is, in fact, quite practicable in theory that none of the ministers should be members of Parliament, since all of them have a constitutional right to appear before both Chambers, and before the committees of each.² Since, however, the Government is responsible to the Assembly, it is bound to be drawn from a combination of parties forming a majority in that Chamber, and this in practice means that the Prime Minister and his ministers will be leading members of those parties, and generally members of Parliament (and more usually, though not necessarily, of the Assembly).

The process by which the Assembly sets up a Government, and the conditions under which it can force it to resign, have been regulated with care in the Constitution and will shortly be described. The various ways in which the Assembly can, while still giving the Government confidence, control and criticise it from day to day, belong to the procedural, rather than the constitutional field. The forms of proceeding used for this purpose include the Interpellation (*interpellation*), the Proposal for a Resolution and the Question, Oral or Written (see Chapter X), and the discussion of financial bills (see Chapter IX); while the system of Permanent Committees is mainly used as an instrument to this end, strengthened when necessary, with the additional weapon of Powers of Enquiry (see Chapter VII). The Council cannot control the Government, which is not responsible to it; but it can still criticise it and question its ministers, who, for practical reasons, will usually appear before it or its committees, when bills for which they are responsible are under consideration, and are under a

¹ Report (document No II-350), p 3

² Const., art 53. M Léon Blum, while Prime Minister in December, 1946 and January, 1947, was not a member of either Chamber.

generally accepted moral obligation to be present when requested on other occasions. The Council uses in general the same methods as the Assembly. In place, however, of the Interpellation, it has invented the procedure of the "Oral Question with Debate". The procedure of the Council is described in Chapter XI. Ministers have the constitutional right (art. 53), when appearing before either Chamber, to be assisted by civil servants acting as Government Commissioners (*Commissaires du Gouvernement*).¹

In two matters the power of decision has been specifically vested in the Legislature, and not in the Executive. War can only be declared through a vote by the Assembly, taken after consultation of the Council (art. 7); and an amnesty can only be granted by law (art. 19). Finally, the Assembly has the constitutional right to hold a minister responsible for crimes and misdemeanours committed by him in the exercise of his functions, and to send him for trial before the High Court of Justice (arts. 56 and 57).

(ii) The Setting-up of Governments and their Overthrow

Under the Third Republic, the President nominated the Prime Minister, who then formed his government and sought the confidence of the Chambers. This system was similar to that which has long been in force in Great Britain, where the King, at the appropriate occasion, sends for a political leader and requests him to form a Government. Under the draft Constitution of April 1946, the initiative in setting-up a Government was to rest entirely with the National Assembly. The Prime Minister and ministers were to be elected by that body, after which they were to receive purely formal nomination by the President—a procedure considered by some critics to belong rather to a *régime conventionnel* than to a system of parliamentary government. The method embodied in the present Constitution (arts. 45 and 46) is a compromise between these two. First the President of the Republic names a Prime Minister designate, "after the usual consultations"—that is to say, after talking to the various political leaders, and the President of the Assembly,

¹This provision represents an ancient practice which originated under the Consulate. The civil servants who are required to assist a minister in a given discussion are nominated for that discussion only, by administrative decree. Their names are communicated to the Chamber by the President at the beginning of the discussion. They are permitted to sit within the Chamber itself (on the ministers' benches). They are even entitled to speak, in explanation of the technical matters with which they are concerned, but it is some time since this right has been exercised.

to find out who is most likely to receive the support of a majority of Deputies. The Prime Minister designate then proceeds to negotiate with other political leaders to find out what support he is likely to be able to obtain. This may take several days, and may end in the Prime Minister designate giving up the attempt. If, however, he finds reason to suppose that he has a chance of being able to form a Government, he must next submit his proposed programme to the Assembly, and ask for its confidence. The procedure under which the debate is held on such an occasion is described in Chapter X. A vote of confidence given by the Assembly is only valid if supported by the majority of the total number of Deputies. There is no need, of course, for a Prime Minister designate to appear before the Council, since he will not be responsible to it, and can govern without having a majority there. Once the Assembly has expressed its confidence in him, the Prime Minister must choose his ministers, who are then nominated to their offices by decree of the President of the Republic.) It has happened that a Prime Minister, though invested with the confidence of the Assembly, has failed to compose a Cabinet, and has had to resign. This process must be used on all occasions when a new Government is to be set up, whether at the beginning of a legislature or during its course. The only occasion when it is not used is upon a dissolution, as described below.

Remembering the weaknesses of the Third Republic, the drafters of both Constitutions of 1946 considered with great care how they could ensure that Governments should enjoy greater stability under the Fourth. In the text finally agreed upon for this end, and embodied in articles 49 and 50 of the present Constitution, an attempt was made to render it impossible for the fall of a Government ever again to come about by chance, or without an opportunity for all concerned to consider the consequences of their actions.) It is no longer possible for the Question of Confidence to be put without warning, by any minister acting on his own initiative. The Government is expressly prohibited from treating any vote in the Assembly as a matter of confidence unless it has previously discussed the proposal so to do at a Cabinet meeting. The President of the Republic, presiding over this meeting and acting as "the interpreter of the permanent and immutable interests of the State" may here be in a position to exercise an impartial and experienced influence. If the Cabinet decide that the Question of Confidence shall be put in relation to a given matter, only the Prime Minister himself can put it.

Once he has done so, one clear day must elapse before the question can be discussed and voted on. The object of this delay is to give time in which the Prime Minister may have consultations with his own and other parties, in the hope of holding together or re-constituting his majority, and the President of the Republic—"the umpire of the political parties"—may talk to the political leaders, and help to reach a compromise. When the question of confidence is put to the vote, the defeat of a Government upon it is not valid unless carried by the majority of all the Deputies. If the Government is so defeated, it is constitutionally bound to resign collectively. The whole process of setting up a Government described in the preceding paragraph must then begin again.

Corresponding rules apply to a Motion of Censure. One clear day must pass between the putting and the discussion of such a motion, which is valid only when carried by a majority of all Deputies. A Government upon whom a Vote of Censure is passed must resign.

The forms which debate in the Assembly upon a question of confidence may take are described in Chapter X. The Motion of Censure is a new feature not previously known in French parliamentary tradition. Article 50 was presumably included in the Constitution *ex abundanti cautela*, lest, in the absence of such a provision, the procedure should be used as a means of avoiding the rules concerning Votes of Confidence. The procedure upon a Motion of Censure, so far as it is yet established, is also described in Chapter X. Neither proceeding can, of course, take place in the Council, since that Chamber has neither authority to support nor power to overthrow a Government.

(iii) DISSOLUTION OF THE ASSEMBLY

The exercise of the right of dissolution has unfortunate associations in French history, and the reason why, under the Third Republic, it fell into disuse after 1877 have been described in Chapter I. Nevertheless, it was realised in 1946 that it was important to provide some means of dissolving the Assembly, as a final solution were it ever to prove impossible, through the balance of parties, to form any stable Government at all. The second Constitutional Committee in fact declared in its main Report, that the right of dissolution constituted one of the principal Keystones of the parliamentary regime.¹

¹Report (document No II-350), p 14.

Opinions had, however, been much divided as to who should possess the right to require a dissolution. In the April Constitution, the National Assembly was to be empowered to dissolve itself by its own resolution, provided that this course was supported by two thirds of the Deputies; and in certain circumstances the Government was also to have the right to require a dissolution by Presidential decree during the second half of a legislature. The second Constitutional Committee, on the other hand, only rejected by the barest possible margin¹ a proposal that the right to order a dissolution should be exercisable only by the President, on the proposal of the Prime Minister, and should be so exercisable at any time without restriction. Such an arrangement would have closely resembled the traditional practice of Great Britain, where the power of dissolution lies with the Crown, but has for some time been exercised on the advice of the Prime Minister.

The provisions of the present Constitution (art. 51) represent a rather complicated compromise between the last proposal and the second part of that of the April Constitution. For the first eighteen months of a legislature the Assembly cannot be dissolved at all. After that, if on two occasions within eighteen months the defeat of a Government is caused by the refusal of a Vote of Confidence or the carrying of a Motion of Censure, the Cabinet may, after hearing the opinion of the President of the Assembly, decide upon a dissolution. The President of the Republic will then dissolve the Assembly by decree. A governmental defeat is not included in the calculation under this rule if it happens within a fortnight of the nomination of the Cabinet (art. 45)—a restriction without which the required conditions would probably occur much more frequently.

Special arrangements have been made, in article 52, for the manner in which the administration of the country shall be carried on when a dissolution has been decreed. The Cabinet which decided upon the dissolution is to remain in office, with the exception of the Prime Minister and the Minister of the Interior. The President of the Republic is to designate as Prime Minister the President of the National Assembly. The latter, in consultation with the Bureau of the Assembly, is to designate the new Minister of the Interior. He is also to designate members of parties not represented in the Government.

¹ The voting was in fact equal (21-21), which meant, in accordance with French parliamentary tradition, that the proposed voted upon was rejected. See the Analytical Report of the second Constitutional Committee, 5th July, 1946, pp. 68-73.

to be Ministers of State. An all-party "caretaker" Government will thus be produced, the purpose of which will simply be to hold a general election and carry on the indispensable business of state until a new Government can be formed, based on a majority in the new Assembly.

(iv) THE PENAL RESPONSIBILITY OF MINISTERS

The final constitutional sanction by which the Assembly can enforce the responsibility of ministers to it lies in its power to bring an accusation against a minister of crimes and misdemeanours committed by him in the exercise of his functions, and to send him for trial before the High Court of Justice (arts. 56 and 57). It is also before this Court that the President of the Republic would be brought were he to be accused of high treason. The Court has succeeded to the judicial functions which were first invested in the Chamber of Peers under the Restored Monarchy (in imitation of the British procedure of impeachment) and which under the Third Republic belonged to the Senate.

It is composed¹ of a president, two vice-presidents, thirty judges and thirty deputy judges. The Assembly elects all these, twenty of the judges and twenty of the deputy judges being chosen from its own members, so as to represent the political parties proportionally. The remaining ten judges and deputy judges must not be members of the Assembly. They, and also the president and vice-presidents, must be chosen in secret ballot and must receive the votes of two-thirds of the Assembly. The Assembly also elects, under the same conditions, six members of either Chamber who, with a president and two assessors (*assesseurs*) chosen by the Higher Council of the Magistracy, form the Court's committee for preliminary enquiry (*commission d'instruction*), and its public prosecutor and two advocates-general, who may be members of the Assembly. One of the permanent officials of the Assembly acts as clerk. The Court must be set up in the first month of each legislature.

The Assembly thus has in its own hands the power to enforce the responsibility of ministers to it. It lies with the Assembly to initiate a charge of crime or misdeamour committed in an official capacity; and it is by a Court, the great part of which is composed of Deputies, that such a charge will be tried. The motion proposing the bringing of the charge must be passed (in a Vote by Secret Ballot) by an absolute majority of the

¹ See Act No 46-2386 of 27th October, 1946

Deputies, excluding those who are to take part in the proceedings of the Court, so that the same individuals do not act both as accusers and judges.

The threat which the High Court of Justice appears to hold over the Executive is, however, less formidable than it sounds. "In reality, the sole explanation of the survival of the institution is the force of tradition."¹ The Senate of the Third Republic in fact sat as the High Court of Justice only twice, in each case for the trial of a minister (of M. Malvy in 1918 and M. Caillaux in 1920). The procedure was not then, and is not now, the necessary or the only method in which judicial action can be taken against a minister, who can be tried in the ordinary courts. It is obviously, by modern democratic standards, open to great abuse. The Fourth Republic may well see it become completely obsolete.²

(v) PARLIAMENT AND THE LAW

1. The Judicial Power

Judicial officers (*magistrats*), other than those of the Public Prosecutor's Department, are appointed by the President of the Republic on the recommendation of the Higher Council of the Magistracy (*le Conseil supérieur de la magistrature*). Once appointed, they cannot be dismissed. It is also the function of this Council to ensure their discipline and independence and the administration of the courts.³

The Higher Council of the Magistracy is composed⁴ of the President of the Republic as its president, the Keeper of the Seals (*le Garde des Sceaux*), who is the Minister of Justice, as vice-president, and twelve other members, who sit for six years. Of these, six are chosen by the Assembly (a two-thirds majority being necessary for their election); they cannot be Deputies. Four others represent the different classes of judicial officer. The remaining two are appointed by the President of the Republic, they may not be Deputies nor judicial officers, but must belong to a legal profession. Twelve deputy members are chosen under the same conditions as the twelve members.

¹ Malézieux and Rousseau, *op. cit.*, p. 85.

² A special High Court of Justice had been constituted before the present Constitution came into force for the trial of persons accused of collaboration or war crimes during the second world war. This Court is entirely distinct from that provided for in the Constitution.

³ Const., art. 84.

⁴ Const., art. 83.

Thus, although Parliament has no direct control over the Judicial Power, the Assembly is indirectly associated with the Executive in the supervision of the administration of justice.

2 *The Preservation and Revision of the Constitution*

In the preservation of the Constitution, and in the event of its revision, both Chambers have a part to play. The role of the Council of the Republic is, indeed, somewhat more important in this field than elsewhere.

The initiative of action to preserve the Constitution lies with the Council. Within the interval between the passing of a bill and its promulgation as law, the Council may, if it so decides by an absolute majority, have the bill referred to a body known as the Constitutional Committee (*le Comité constitutionnel*). This Committee¹ is presided over by the President of the Republic, and consists of the Presidents of the two Chambers, seven members chosen by the Assembly to represent the political parties proportionally, but not being Deputies, and three members chosen under similar conditions by the Council. It must be set up at the beginning of each session. The function of this Committee is to examine every bill so referred to it, with a view to deciding whether its enactment would involve revision of the Constitution. It must endeavour to achieve agreement on this point between the two Chambers, but if it fails to do so must, within five days (reduced to two in cases of urgency), express its own ruling on the question. It is not competent, however, to give any decision on a question involving the possible revision of Part XI of the Constitution (which provides for the functioning of the Committee itself and for the procedure of constitutional revision). If the Committee decides that the bill is in conformity with Parts I to X of the Constitution, the bill must be promulgated within the normal time limit, extended by the period allowed to the Committee for coming to its decision. If the Committee decides that the bill does involve revision of the provisions of these parts of the Constitution, it is returned to the Assembly for fresh deliberation, again considered by both Chambers, and if again passed, it cannot be promulgated until the process of constitutional revision has been gone through.²

This process is laid down by article 90 of the Constitution. It must be begun by a decision of the Assembly, expressed in a resolution setting out the matter which it is proposed to revise

¹ Const., art 91

² Const., arts 92 and 93

The resolution is not valid unless supported by an absolute majority of Deputies. A Second Reading of the resolution must be held within three months. The same majority is required, unless in the meanwhile the Council has also adopted the resolution by a similar majority. After the Second Reading, a bill to enact the proposed revision is to be drawn up in the Assembly (presumably by a committee) and subjected to the normal legislative procedure in both Chambers. If this bill is passed by a majority of two-thirds on second reading in the Assembly, or by a majority of three-fifths in each Chamber, proceedings upon it are then concluded. If neither of these requirements is obtained, it must be submitted to a referendum. Within eight days of its final adoption, with or without a referendum, the President of the Republic must promulgate the bill as law. The revision of the Constitution will then have been enacted.

Certain further conditions of the Constitution limit the nature of such revision. No revision which concerns the existence of the Council of the Republic may be passed unless with the Council's agreement, or failing this, after a referendum (art. 90). No proposal for revision can be introduced or carried on if already begun, at a time when the whole or any part of mainland France is occupied by foreign troops (art. 94). This provision makes unconstitutional any repetition of the constitutional revision of July, 1940. No proposal to change the form of government to a non-republican form may be made (art. 95).

Up to the time of writing no revision of the Constitution had yet been passed into law.¹ Cases have occurred, however, of the reference of a bill to the Constitutional Committee. On at least one such occasion (which is described in Chapter XI), the real purpose of the Council in initiating the reference was not to ascertain whether the bill in question itself involved revision of the Constitution, but to obtain an interpretation of certain constitutional provisions which had been applied to it. The point of view of the Council was upheld by the Constitutional Committee, and agreement was reached between the two Chambers, in consequence of which the Assembly revised its Standing Orders to conform with the Constitution as interpreted by the Committee.

VI. THE CONSTITUTION IN PRACTICE

At the time of writing the Fourth Republic has been in existence for a little over four years, and it is still early to

¹ See, however, Addendum

attempt any broad judgement on the effectiveness of its Constitution in practice. Some tentative comments can, however, be offered on how some of the innovations which it contains are being found to work. This is not entirely as was foreseen.

1. *The Position of the Council of the Republic*

The Council of the Republic was, as has been described, the fruit of the second thoughts of the nation's elected constitution-makers. Many of them agreed only grudgingly to its existence, and the powers given to it were small. In the words of the Reporter of the second Constitutional Committee, the two-chamber system of the Constitution was to be "restrained" (*tempéré*) and "incomplete". The part of the Council was to be that of a Chamber for reflection or for second thoughts (*une chambre de réflexion*), the function of which would be to clarify (*éclairer*) the discussions of the National Assembly. When the first elections to it produced a Chamber in which the balance of parties was almost exactly the same as in the Assembly, it was said by some that the Council would become merely a recording Chamber (*chambre d'enregistrement*) and would do little beyond expressing formal approval of the decisions of the Assembly.

From the first, however, the majority of members of the Council showed a rather greater sense of the importance of their Chamber, and rapidly developed an *esprit de corps* of their own. Within the limited time allowed them by the Assembly for legislation, they suggested many amendments the soundness of which both the First Chamber and the Government had to admit. In one case, that of the important "Reynaud Bill" of August 1948, when they had proposed the restoration of the original text of part of the bill, the Government made the acceptance of their amendments on Second Reading a matter of confidence, and the Assembly in fact accepted them. The year before this they had successfully opposed the Assembly's interpretation of a passage in the Constitution, and won for themselves a more reasonable period for the consideration of bills passed under the procedure of Urgent Discussion.¹ The unexpected value of the Council was reflected in the importance attached by the political parties to the elections of November 1948.

¹ See Chapter XI

These elections produced a markedly different balance of parties in the second Council, in which an anti-governmental majority has at times been formed and which has shown a certain amount of hostility towards the Assembly. Its members possessed sufficient confidence, soon after their election, to abandon the title of "Councillor", and to adopt, with all its associations, the old style of "Senator". They have made several attempts to improve the status and powers of the Council, on the whole unsuccessfully.¹

It still remains to be seen whether the Council can make any effective use of its strongest weapon—the provision in article 20 of the Constitution that, when the Assembly has disagreed to all or some of the amendments made by the Council to a bill, and if at the Vote on the Whole Bill in the Council the bill was adopted by an absolute majority, a similar majority is required to validate the Vote on the Whole Bill at Second Reading in the Assembly. It is possible that, with the present constitution of the two Chambers, a Government might not be able to induce an absolute majority of the Assembly to reject a text as amended by the Council. If the Government had put the Question of Confidence in such a case, it would have to resign, and so it is possible that the action of the Council might indirectly bring about the fall of a Government and eventually even a dissolution of the Assembly. So far, however, on those occasions on which the Council has fulfilled these conditions, the Government has found no difficulty in securing the necessary majority in the Assembly. Indeed it seems probable that the success of a Government in such circumstances might very well add to its prestige, and that the majority in the Council might find that their action had rebounded to their own discredit. In any case, any Government, so long as it remains a Government, must have a potential absolute majority of the Assembly at its command, since its Prime Minister has been invested by such a majority. It thus seems unlikely that the Council could use the provisions of article 20 to do more than provide the occasion for the Assembly to demonstrate that it had ceased to support the Government—an occasion which the Assembly would probably prefer to provide itself, as it is well able to do.

¹ Examples of such attempts are the Council's rejection, in December, 1948, of the whole text of a bill which they had previously amended—the result being that the Assembly re-adopted its own text *en bloc*, without considering the Council's amendments (see p. 192), and its attempt in June, 1949, to take to itself the power to consider bills presented by Senators in its own committees before sending them to the Assembly (see pp. 259–60).

Thus on the one hand the Council has emerged as a more substantial and respected body than at first seemed probable, and one capable of putting its limited legislative functions to unexpectedly useful effect. On the other hand, it has not yet shown that it is able to make any effective intervention in politics, and it seems unlikely that it could do so unless its powers were to be increased by amendment of the Constitution.

2. Governmental Stability

Thus, in the first three and a half years of the Fourth Republic, the old problem of how to form a Government has needed to be worked out in the First Chamber only, as the makers of the Constitution intended that it should. During the three years from mid-January 1947 to mid-January 1950, France had five Governments¹—an average frequency little different from that maintained under the Third Republic. As the First Legislature proceeded on its course, the task of successive Prime Ministers designate became once more that faced so often by their predecessors under the Third Republic—how to find a formula which would hold together for another period a number of different parties forming the only possible majority in the First Chamber. The nature of the party system having remained essentially the same, the Constitution has made little difference, so far as that Chamber is concerned, to the problem of how to find a stable Government.

This is not to say that the provisions of article 49 of the Constitution have been entirely without effect. The edge of the requirement that the Question of Confidence may only be put after discussion in the Cabinet has to some extent been blunted since it has been interpreted as allowing the Government to authorise the Prime Minister to put the Question whenever he thinks fit in relation to a particular piece of business. There have, however, undoubtedly been occasions when a Government might well have fallen, but for the necessary interval of one clear day between the putting of the Question of Confidence and the taking of the vote upon it.² Nevertheless, article 49 has done no more than remove one

¹ This figure excludes the abortive Government of M. Robert Schuman which was defeated as soon as it faced the Chamber on 7th September, 1948, and the attempts of M. Moch and M. René Mayer each of whom in turn, in October, 1949, after receiving a vote of investiture, failed to form a Cabinet and was forced to resign.

² Compare, in particular, the incidents arising in March, 1947, out of debates on Interpellations and a bill concerning Indo-China, and in May, 1947, when the Communist Party left the Government, and the debates on the Budget for 1950

particularly undesirable way in which a Government might fall. It has in no way affected the root causes of instability.

Finally, it is becoming increasingly probable that the provisions made in article 51 for the dissolution of the Assembly will prove to be of no practical use. Since the elapse of the first eighteen months of the First Legislature, there have been two periods of prolonged ministerial crisis, but neither of them caused the conditions of article 51 to be fulfilled. M. Marie's resignation on 28th August, 1948, did not follow defeat in the Assembly, but was made spontaneously as the result of disagreement within the Cabinet. M. Schuman's defeat on 7th September of that year was not on a Question of Confidence within the meaning of article 49 of the Constitution; it also occurred within fifteen days of the fall of the previous Government, and therefore, under article 45, would not in any case have ranked as a ministerial crisis for the purpose of article 51. In October, 1949, three Prime Ministers resigned in under three weeks, but in no case as a result of defeat in the Assembly. It thus appears that the requirements of Article 51 are extremely narrow and easily avoided.¹

¹ On 30th November, 1950, the Assembly agreed to a Resolution proposing the revision of certain articles of the Constitution. This is described in part I of the Addendum (p. 271).

Chapter Three

THE NATURE OF FRENCH PARLIAMENTARY PROCEDURE

1 History of the Standing Orders¹

WHEN THE States-General met in 1789, they were at a very different stage of procedural development to that which the House of Commons had then reached. The latter already possessed an elaborate and reasonably practical code of procedure, worked out by experience, mostly in the preceding two hundred years. Little of this procedure, it is true, was embodied in the Standing Orders of the time; but it was contained either in well-established custom or in recorded precedents. In France, on the other hand, no national parliamentary body had met since 1615, and such procedural lore as might be drawn from more recent meetings of Assemblies of Notables or of Provincial Estates could be of little use to the representatives of the nation in the excited atmosphere of 1789.

The complete absence of any orderly method of proceeding caused the Third Estate, on 25th May, 1789, to set up a committee to draw up rules of procedure. During the subsequent debates upon the proposals of this committee, some attempt was made by the Comte de Mirabeau to persuade his colleagues to learn from the experience of England, and to base its procedure upon that of the House of Commons. But the tendency of the majority, of whom Sieyès was the most prominent, was to have nothing to do with English methods, and no trace of them is to be found in the rules which the National Constituent Assembly finally adopted on 29th July, 1789.

These rules formed a set of Standing Orders (*un règlement*). It proved inadequate to its task of ensuring the orderliness of proceedings. But it established the form of code in which French parliamentary procedure has largely been embodied ever since. The Legislative Assembly, after provisionally adopting the Standing Orders of 1789, (which had been to some extent

¹ The texts of all Standing Orders used by French parliamentary Assemblies from 1789 to 1924 are given in Roger Bonnard's *Les Règlements des Assemblées Législatives de la France depuis 1789* (Recueil Sirey, Paris, 1926). The book also contains a useful historical introduction.

modified) drew up its own. The Convention did the same. It also, as part of its effort to impose upon its successors the lessons of its own experience, drew up a set of Standing Orders to be applied equally in the Council of Five Hundred and the Council of Ancients. These Standing Orders were embodied in an act, and consequently could only be amended by legislation (though each of the two Councils did make some minor modification on its own authority). At the beginning of the Consulate, the right to make their own Standing Orders was expressly given by law to the Tribune and to the Legislative Body, and each assembly used it, but their freedom of action was from the first curtailed by the nature of the Constitution, and by other legislation, and became still more restricted under the Empire.

On the restoration of the Monarchy, the two Chambers were left free to make their own Standing Orders. Their procedure had naturally to conform to the constitutional limitations imposed by the Charter. Certain of their administrative arrangements were also laid down for them by royal ordinance, on the occasion of the reading of the Charter on 4th June, 1814, and on 13th August of that year their relations with the King and with each other were regulated by law. During the Hundred Days the imperial Chamber of Peers adopted fresh Standing Orders of its own, the Chamber of Representatives began a similar task, but did not complete it. On the second Restoration, the Standing Orders of 1814 were re-adopted in each Chamber. They remained in force, with a certain amount of modification, throughout the reigns of Louis XVIII and Charles X. During this time proposals to modify the Standing Orders of the Chamber of Deputies were on a number of occasions used as a means of attacking the Charter, or pursuing party ends. Under the July Monarchy, the modifications made to the Charter necessitated corresponding amendments to the Standing Orders. New sets of Orders were later adopted, by the Chamber of Peers in 1833, and by the Chamber of Deputies in 1839.

On the setting up of the Second Republic, the Constituent Assembly of 1848 found itself completely free to make its own rules. Both it and the Legislative Assembly of 1849 drew up their own Standing Orders, which aroused considerable interest among their members. Their activity was cut short, in this as in other fields, by the *coup d'état* of December, 1851. The Standing Orders of the Legislative Body and the Senate were then enacted for them by legislative decree in March,

1852. On the establishment of the Empire this decree was declared to be a simple act of the Executive, and thus could be modified by the Emperor alone. The dispositions which it contained were in fact re-drafted by imperial decree on three occasions, at the end of 1852, in 1861 and in 1867. Minor modifications were also made from time to time. As part of the reform of the Constitution which was initiated through the *senatus-consulte* of 8th September, 1869, the Chambers received again the power to make their own Standing Orders (except in so far as their constitutional position and their relations with each other were concerned). The Senate consequently adopted Standing Orders of its own on 10th January, and the Legislative Body on 2nd February, 1870. The further constitutional reform enacted by the *senatus-consulte* of 21st May, 1870, made it necessary for the Senate to adopt a revised set of Orders on 8th June, 1870.

The National Assembly on 13th February, 1871, the day after its first meeting at Bordeaux, decided provisionally to use the Standing Orders of the Legislative Assembly of 1849. In fact it continued to use them, with only small modifications, throughout its existence. The new Chambers of the Third Republic, however, at once set about drafting their own Orders. The Senate adopted theirs on 10th June, 1876. These Orders were never wholly replaced throughout the Third Republic, though subject to considerable modification from time to time, notably in January, 1921. The Chamber of Deputies agreed to its first set of Standing Orders on 16th June, 1876. After considerable amendment this was replaced on 4th February, 1915, by a new set. This was also amended a number of times, but remained in force until 1940 (being last reprinted in June, 1936).

One of the first tasks of the Provisional Consultative Assembly set up in 1943 was to draw up Standing Orders. The first Constituent Assembly adopted its own, on 22nd November, 1945, and its successor also used them. Finally, the new Chambers of the Fourth Republic considered, and brought into use piece by piece, the Standing Orders which are still in force. The National Assembly finally adopted its Orders on 20th March and the Council of the Republic on 5th June, 1947.

It may be mentioned that in 1848 there was begun the practice, which is still maintained, of excluding from the Standing Orders matters connected solely with the material and financial needs of the Chamber, and with the organisation of its permanent staff. These are left to be regulated by the

Bureau, the decisions of which have usually been given in the form of an order (*arrêté*) or an instruction (*instruction*). A number of regulations on such points are at present contained, in the case of each Chamber, in a General Instruction. That of the Assembly¹ was issued on 26th March, that of the Council on 8th April, 1947.

The right to make their own Standing Orders is not expressly granted to the present Chambers by the Constitution, nor was it to those of the Third Republic. It had been spontaneously assumed by the representatives of the Third State in 1789, and has been encroached upon in only two periods, during the Directory, when it could be exercised only through legislation, and under the Second Empire, when it was for many years removed altogether. It may be considered to be part of the republican tradition, not requiring any statement in legal form.² This clearly does not mean that there has not always been, as there is now, a certain area of procedure the rules of which are either included in or directly dependent on the Constitution in force.

2. *The Growth of Procedure*

The constitutional development of France between 1789 and 1876 took a broken and interrupted course. A number of differently organised legislative assemblies were set up and removed, and in consequence a succession of sets of Standing Orders were adopted. This picture gives a false idea of the continuity which, from the early years of the nineteenth century, marked the growth of many of the fundamental institutions of the country—notably its system of local government, its penal code and its financial organisation. Similarly, despite changes in the form, powers and names of the succeeding Legislatures, their methods of work developed with comparative steadiness. For their task in the main remained the same, though the extent of their opportunities to fulfil it might vary. Tradition, too, which had been almost totally absent, and in principle despised, in 1789, inevitably grew up and came to be valued.

Indeed, to a small extent this continuous growth is linked to pre-revolutionary times, through the procedure of the division of the Chamber into *bureaux*, for the Verification of Credentials. Subsequently, the connections are thinnest between

¹ Referred to below under the abbreviation "G.I."

² "Each Chamber is sovereign in all its proceedings, that is an indisputable principle" (Pierre, §451)

the Revolutionary Assemblies and the Chambers of the Restoration, because of the completely subordinate role to which the Legislature was reduced under the First Empire. Even so, not all the habits developed by the early Assemblies were forgotten. From the early years of the Restoration there is a steady development. The beginnings of modern methods of financial control can be found in the days of the restored Legitimate Monarchy, those of the procedure of the Interpellation in the reign of Louis-Philippe.

It is, however, the Standing Orders of the Legislative Assembly of 1849 which are generally regarded as the main source of French procedure. As has been described, these were brought again into use by the National Assembly of 1871-75. They provided the main inspiration to both the Chamber of Deputies and the Senate when they drew up their respective Standing Orders in 1876. The Second Empire, however, had not brought about any weakening of parliamentary tradition comparable to that which had occurred under the First, and the Standing Orders which had been adopted by the Legislative Body in 1870 were also drawn upon in 1876.

Thus tradition was already mature at the beginning of the Third Republic. Sixty-five years of uninterrupted parliamentary government followed. The two Chambers began with very similar Standing Orders. Each made modifications from time to time, the Chamber of Deputies being usually well in advance of the more conservative Senate. The particular products of this period were the modern legislative procedure and the system of Permanent Committees. By the end of it procedure was, in a number of important branches, very different from what it had been at the beginning. Well before that, however, the main principles of the French order of parliamentary procedure had become fixed and widely known.

The war-time and post-war Assemblies took over that order. It is inconceivable that they should have done anything else. When the Consultative Assembly was about to meet for the first time at Algiers, "it appeared fitting (*opportun*) . . . particularly to the members of the Senate and of the Chamber of Deputies who were called to take part in it, to turn from the first to the old traditions."¹ This the Consultative Assembly

¹ Emile Katz-Blamont, *L'Assemblée Consultative Provisoire*, p 21. M Blamont was an official of the Chamber of Deputies, and became Secretary-General successively of the Provisional Consultative Assembly, the two Constituent Assemblies and the National Assembly.

did, in its opening proceedings, and in the Standing Orders which it presently adopted. The methods of the two Constituent Assemblies were equally within the tradition. The Standing Orders of the present National Assembly enshrine a procedure which, in general, is still that of the Chamber of Deputies, though alterations of detail, some of them important, have of course been made, and the Orders are differently arranged. Those of the Council of the Republic are similar, differing mainly only as a result of the different constitutional position of the two Chambers.

3. *The Form of French Procedure*

The history of the Standing Orders has been described at some length because of their outstanding importance. It is in them that the greater part of French parliamentary procedure is contained. In the Revolutionary Assemblies it was natural that this should be so, with so little tradition or precedent available, it was essential to draw up rules in writing. A preference for doing so has been maintained throughout the history of French legislative assemblies.

In this, French procedure differs greatly from English. A great expansion has, it is true, taken place since the Reform Act of 1832 in the Standing Orders of the House of Commons. Yet even today the procedure of that House (and still more, of course, that of the House of Lords) is only to a minor extent contained in Standing Orders. The greater part consists still of tradition and precedent.

These two vehicles of procedure are not, indeed, wholly absent in France. They are treated at length in the monumental work of the late M. Eugène Pierre, a former Secretary-General of the Chamber of Deputies.¹ This book has long been the standard authority, the "Erskine May", of French parliamentary procedure. It will frequently be referred to.

Much tradition is now, of course, embodied in the Standing Orders. In addition, uncodified tradition to a certain extent regulates points of procedure not treated by the Standing Orders. An example of this may be seen in the procedure used until 1949 in the Assembly, and still used in the Council, for considering a Request for Authorisation to Prosecute. Mainly, however, it has formed around the Standing Orders themselves.

¹ *Traité de Droit Politique, Electoral et Parlementaire*, par Eugène Pierre, Secrétaire Général de la Présidence de la Chambre des Députés. This is at present contained in two complementary volumes, the second edition (1902) of the *Traité* itself, and the *supplement* of 1924.

It supplements and interprets them, and dictates the strictness or laxity with which each particular rule is in fact enforced. The rules concerning the financial initiative of Deputies, for example, are much clearer in the light of tradition than of the actual text of the Standing Orders,¹ while certain rules in the Standing Orders concerning the quorum of Committees and the attendance of Deputies at them are, in practice, never enforced. Within the Committees themselves, proceedings are less fully covered by Standing Orders than are those of the Chamber, and consequently a considerable amount of tradition has grown up. There are naturally also a large number of activities not strictly procedural, in the Chambers and within the precincts of the two parliamentary Palaces, which are governed mainly by tradition.

Precedents also have accumulated. They do not, however, possess an authority comparable to that of the decisions of the Chair in the procedure of the House of Commons. This is a natural consequence of the comparatively weak position of the President of a French Chamber. French Assemblies have always been reluctant to entrust power to their Presidents. At the beginning, this was due partly to fear that a powerful President might be used by the King to promote his interests, but still more to distrust felt by Deputies towards any of their number who became over-prominent. In the first Constituent and Legislative Assemblies the President was re-elected every fortnight, and no member could hold the office for two consecutive periods. This distrust initiated a tradition. It was certainly not weakened under the Consulate, the First Empire, the Monarchy from 1814 to 1830, and the Second Empire (till 1869), during which periods the officers of the Legislative Assemblies were appointed for them by the head of the State. Under the Third Republic, the dignity of the office of President was perhaps enhanced; but its powers were stabilised at a comparatively low level.

In their relation to the interpretation of rules of procedure, these powers are thus described by Pierre. "In questions of procedure which are not explicitly decided or are not foreseen in the Standing Orders, the President indicates to the Chamber what seems to him the solution best calculated to ensure the orderly progress of debate and to respect the rights of all. Even when some members contest his interpretation, he can proceed further and apply of his own authority the procedure which seems to him to conform most to the spirit of the Standing

¹ See below, pp 220-4

Orders. Equally, he can consult the Chamber and ask it to give a vote. . . . When the Standing Orders are absolutely silent on a question of procedure on which the Chamber is divided, and on which no precedent throws any light, the part of the President is to give his interpretation, without however imposing it with presidential authority, he consults the Assembly. His duty is, indeed, to see that the Standing Orders are observed, but, when the Standing Orders are silent, he can only indicate the best decision to take, without going so far as to put his opinion in the position of a non-existent text.”¹

It is clear from this that it will only be when the entire Chamber is prepared to leave a matter to the President, that a question of procedure will be settled by his sole decision. Given the comparatively weak standing of the Chair, a President will usually prefer to submit a question to the Chamber, rather than decide it himself; and when a marked difference of opinion exists throughout the Chamber, he is bound so to submit it. The decisions taken by the Chamber in these circumstances form precedents. Many of them are recorded in the pages of Pierre’s treatise. But such precedents can never have the authority of a Speaker’s Ruling. They are not the reflected judgments of the highest authority on procedure, but the wish of a majority in the Chamber at a particular time, based all too probably on political considerations. The Chamber has given them, and the Chamber can later reverse them, and on occasions has done so.

The main repository of the rules of procedure remains the Standing Orders. They form the “internal law” of each Chamber. They are the particular possession of the Legislature, and it is a tradition now long established that the Government should take no part in debates upon their text. A knowledge of them is an essential basis to an understanding of French procedure.

4. *The Present Standing Orders*

At its first meeting on 29th November, 1946, the National Assembly provisionally put into force the Standing Orders of the two Constituent Assemblies. On 4th December it set up a “Committee on the Standing Orders and the Franchise”, which at once set about drawing up a definitive set of Orders for the Assembly. These were adopted in six parts, on 12th and 27th December, 1946, 28th January, 7th February, and 4th

¹ Pierre, §452

and 20th March, 1947, respectively. On the last-named date the whole body of the Standing Orders was agreed to. They had given rise to no very extensive debate in the Chamber. The article most discussed was No 39, concerning the arrangements for organized debates, which was considered on 7th February and 5th March, 1947. This was considerably amended in the Chamber, the rules adopted on this subject being less strict than those originally proposed and those used by the Constituent Assemblies. Up to the end of 1949, amendments had been made to the Standing Orders of 1947 on six occasions.

Account being taken of these amendments, the Standing Orders at present consist of 118 articles. These are divided into twenty-one chapters, entitled as follows.

Chapter I (art. 1). Denomination of the Assembly and of its Members.

Chapter II (art. 2) The Age Bureau¹

Chapter III (arts. 3-8) *Bureaux*¹ Verification of Credentials. Resignations.

Chapter IV (arts. 9-11). The Permanent Bureau.¹

Chapter V (arts. 12 and 13). Groups (*i.e.*, political groups).

Chapter VI (arts. 14-18, 18 bis and 19) Committees

Chapter VII (arts. 20-23). The Presentation of Bills and of Proposals for Resolutions. (*Dépot des Projets et des Propositions*)

Chapter VIII (arts. 24-33). The Work of Committees.

Chapter IX (arts. 34-39). Entering of Business on the Orders of the Day of the Assembly. Organisation of Debates

Chapter X (arts. 40-54). The Manner of Holding Sittings. (*Tenue de Séances*.)

Chapter XI (arts. 55-66, 66 bis, 67-69). The Discussion of Bills and of Proposals for Resolutions

Chapter XII (arts. 70-73). Amendments.

Chapter XIII (arts. 74-85). Methods of Voting.

Chapter XIV (arts. 86-88). The Relations of the National Assembly with the Council of the Republic and with the Government.

Chapter XV (arts. 89-93). Interpellations

Chapter XVI (arts. 94-97). Oral and Written Questions.

Chapter XVII (arts. 98-100). Petitions.

Chapter XVIII (arts. 101-103). The Interior and Exterior Security of the Assembly. (*Police Intérieure et Extérieure de l'Assemblée*.)

¹ For the different significance of the word *Bureau*, see p. 101

Chapter XIX (arts. 104-110). Discipline

Chapter XX (arts 111-113) The Staff and Financial Arrangements of the Assembly

Chapter XXI (arts. 114-116). Various Arrangements.

In addition to the Standing Orders, rules concerning various matters of internal organisation have been made by the Bureau (in application of its powers under S.O. 112), and are contained in a General Instruction (*Instruction générale*), dated 26th March, 1947. The matters dealt with include the publication of the different Reports of debates, the presentation, printing and distribution of various other documents, various details of committee work, technical arrangements for the holding of votes, the machinery of communication with the Council of the Republic, and the recording of petitions received. Certain orders made under the Third Republic concerning the publication of the Parliamentary Annals, the international exchange of documents, and the organisation of the Library, have been again put into force.

The Council of the Republic adopted its own Standing Orders in the first half of 1947. They are described in Chapter XI.

Chapter Four

THE DEPUTIES OF THE NATIONAL ASSEMBLY

I THE ROLE AND POSITION OF A DEPUTY

THE MEMBERS of the National Assembly are elected through territorial constituencies, in conformity with the Constitution (art. 6). Thus, in the first place, a Deputy represents a locality, either a Department or a smaller administrative division. But the whole body of Deputies are the representatives of the whole people, entrusted, again under the Constitution (art. 3), with the exercise of the legislative power, on behalf of the nation. A Deputy, therefore, represents not only his own constituents, but the whole people. The Assembly is a body where, in Burke's famous words about the British Parliament, "not local purposes, not local prejudices, ought to guide, but the general good, resulting from the general reason of the whole". It has, indeed, been recognised since 1789 that no compulsory mandate (*mandat impératif*) binding him to propose or resist a certain course of action, ought to be undertaken by an elected representative of the people¹. No group "for the defence of private, local or professional interests" may be formed within the Assembly²; and Deputies are expressly forbidden to make use of their position for professional purposes or with any motive other than the fulfilment of their mandates as representatives of the people.³

The Association of bodies of Deputies in political parties is not, of course, forbidden. The Standing Orders do not, indeed,

¹ A considerable number of the representatives elected to the States-General in 1789 had bound themselves to a certain line of policy in their Memorials (*cahiers*). On 23rd June, 1789, a royal proclamation was issued deprecating the practice, and permitting representatives who were so bound to seek new instructions from their electors. Compulsory mandates were expressly forbidden in the Constitutions of 1791, 1795 and 1848, and in the Organic Act of 30th November, 1875, on the Election of Deputies. Clause 13 of that Act is the provision under which they are still forbidden today.

² S.O. 13.

³ S.O. 116. Under clause 17 of Act No. 50-10 of 6th January, 1950, no Member of Parliament nor of the Assembly of the French Union may allow his name to be used as that of a member of one of those bodies, on any document intended to give publicity to any financial, individual or commercial concern. Any official of such a concern responsible for such a name being so used is liable to imprisonment for up to a year, or to a fine of up to 360,000 francs, or to both.

recognise the existence of parties already constituted outside the Assembly. But they permit Deputies to organise themselves into political groups (*groupes politiques*), under which title the parties are officially recognised in the Assembly.¹ To be constituted as a political group, a party must transmit to the Bureau a list of its members, and a declaration of their policy, signed by all of them. These lists serve as the basis upon which seats are allocated in the Chamber, and places allotted in the Bureau and in committees, and other such bodies. Deputies who belong to no party, and groups of less than 14 members, may for some of these purposes attach themselves to one of the larger groups. No Deputy may appear on the list of more than one group.

"The first duty of a representative is to attend the debates of the Assembly to which he belongs". (Pierre, §488) Attendance in the Chamber is not, however, compulsory; though the Standing Orders still provide for the fulfilling of certain formalities by Deputies who wish to be absent at a given time.² These provisions are the relics of rules originally made by the Assemblies of the Revolution, which from time to time suffered from the too-frequent absence of a number of their members. A Deputy who intends to be absent from a particular sitting may excuse himself, his message to that effect being noted at the beginning of the Verbatim Report of the sitting concerned. If he intends to be absent for a longer period, he may request leave of absence (*un congé*) in a letter to the President. In theory the Bureau must consider the request and state its advice with regard to it to the chamber, which then may decide to grant or withhold the request; in practice these proceedings are entirely formal. Deputies are in fact under no obligation to give warning of their intended absence, though in practice they frequently do so, as a courtesy to the Assembly.

The Constitution (art. 25) ensures that Deputies (and Senators) shall receive an emolument (*un indemnité*). The payment by the State of the representatives of the people is, indeed, a practice of longer standing in France than in Britain. It was established by the first Constituent Assembly, and has been maintained since, except for the period from 1815 to 1848, and for a short time under the Second Empire.³ The amount of the emolument is now, under the Constitution, to be fixed by

¹ S O 12

² S O 42

³ The payment of expenses, either by constituents or by the Royal Treasury, to members of the States-General had been known from the 16th century onwards (see Pierre, §163)

reference to the salary of a category of civil servant (the decision as to which category being left to the Assembly itself). It is laid down and altered from time to time by Resolution of the Assembly.¹

The National Assembly is, again under the Constitution (art. 8), the sole judge of the eligibility of its members and of the regularity of their election, and it alone can receive their resignation (*démission*). A Deputy who wishes to resign need only inform the President of the Assembly, who announces the resignation at the next sitting.² The Assembly has, in theory, the right to refuse to accept a resignation, but it is a right which is not likely ever to be exercised.³ The forfeiture (*déchéance*) of his mandate may also be declared by the Assembly, in the case of a Deputy who has committed certain offences which would make him ineligible for election.⁴ This power was not often exercised under the Third Republic. The manner in which Deputies are elected, the procedure through which the Assembly validates their election, and the privileges with which they are invested, must now be described in greater detail.

II. WHO MAY BE DEPUTIES

It is unconstitutional for any person to be a member of both Chambers of Parliament at the same time, or for a Member of Parliament to belong also to the Economic Council or to the Assembly of the French Union.⁵ In other respects the Constitution does not lay down who may and who may not be Deputies, but leaves "the rules of ineligibility and incompatibility" to be determined by ordinary law. The implications of these two terms are different. A person who is "ineligible" for membership of the Assembly cannot be elected and should not put himself forward as a candidate. If such a person were found to have stood as a candidate and to have been successful, the Assembly would invalidate his election. A person, however,

¹ The emolument of a Deputy or Senator is at present fixed at the same figure as the salary of a Councillor of State. This was fixed, for the financial year, 1951, at 1,300,000 francs (somewhat more than £1,300).

² S.O. 8

³ See Pierre, §315.

⁴ See below, p. 83, and Pierre, §317. This long-standing provision was re-enacted under Act No. 50-10 already referred to.

⁵ Constitution, art. 24, Act No. 50-10, already referred to, provides (clause 18) that if a member of one of these bodies is elected to another, he must choose which he wishes to belong to within one month from the validation of his election or from the end of the period allowed in which to contest it, failing such choice, he will be taken to have resigned from the body to which he first belonged.

who holds an office "incompatible" with the holding of that of Deputy may compete in an election; but if he is successful, he must decide which office he wishes to exercise, and resign from the other.

1. Ineligibility

Every Frenchman and Frenchwoman over twenty-three years old may stand for election to the Assembly (and to any other body elected by direct universal suffrage). Such is the general position under post-war law,¹ qualified by certain exceptions mostly created by older laws still in force. No person on the active list of one of the services is eligible, nor anyone who has not yet completed his period of compulsory service.² Certain local officials, judicial and administrative, may not be elected by any constituency falling within the locality in which they exercise their functions, neither while they are in office nor for six months after they have left it. A Deputy found guilty of corrupt practices at an election³ may not stand again for two years; and condemnation for certain criminal offences involves loss of eligibility for varying periods. A person declared bankrupt is ineligible until discharged. Finally two classes of person are made ineligible by rules of political origin—members of families who have held the throne of France, under acts of 1885⁴ and 1886 (consequential to the Constitutional revision of 1884), and, since 1946, persons on whom has been inflicted the punishment of "national indignity" for acts of collaboration during the occupation.

2. Incompatibility

The rules concerning *incompatibility* have recently been restated, with some amendment, in the Act No. 50-10 of 6th January, 1950, already referred to.⁴ The principle underlying them is that the holding of any office which is paid out of state funds or remunerated on the nomination of the state is incompatible with the holding of an electoral mandate as a Deputy.⁵

¹ Act No. 46-2173, of 1st October, 1946

² The conditions under which a Member of Parliament or of the Assembly of the French Union may perform military service during his mandate, in normal times and during general mobilisation, are now governed by clauses 23 and 24 of Act No. 50-10 already referred to

³ Under the Act of 31st March, 1914, referred to below

⁴ Clauses 11 to 19. The rules in force under the Third Republic, and at the beginning of the Fourth, had been originally laid down in the Organic Act of 30th November, 1875, on the Election of Deputies, and modified and added to by later enactments

⁵ The rules also apply equally to members of the Council of the Republic and of the Assembly of the French Union

The most important of such offices is that of President of the Republic. Members of the Government, however, are specifically exempted from the rule; and in practice ministers and under-secretaries are, as in Britain, generally, though not necessarily, appointed from among Members of Parliament. Beneath the President, the rule covers the whole permanent civil service, with the exception of the holders of certain professional chairs and of certain religious appointments in the Departments of *Haut-Rhin*, *Bas-Rhin* and *Moselle*.¹ A Deputy may also carry out a temporary Government mission, provided that this does not last longer than six months, without any question of incompatibility arising. The first half of the principle, however, is specifically extended to cover the holding of the position of director, administrator, member of the board of trustees, manager or representative of, or of permanent and salaried legal or technical adviser to, any nationally owned concern, or any company, concern or business enjoying any form of special financial advantage provided by the state.²

In consequence any civil servant who is elected to the Assembly must give up his official post (although he may take it up again when he ceases to be a Deputy, and retains his pension rights), unless, within a week after the Verification of his Credentials, he declares that he does not accept the position of Deputy. A holder of any of the posts named in a state-owned or state-aided concern must, if he is elected and wishes to take up the position of Deputy, announce his resignation from his former post within a week of the Verification of his Credentials; if he fails to do so, he is automatically declared to have resigned his position as Deputy. Conversely a Deputy who, during his mandate, accepts a post remunerated by the state (other than one of those exempted from the rule of incompatibility) is automatically declared to have resigned. The same provision applies to a Deputy who accepts one of the posts named in a state-owned or state-aided concern (and also to one who accepts a similar post in certain joint-stock companies formed with a purely financial object), unless he was already connected with the concern before his election as Deputy.

In the case of a Deputy appointed to a post remunerated by the state, his acceptance of the post in itself automatically involves his resignation as a Deputy. More elab-

¹ In those Departments the Roman Catholic Church enjoys a special position

² The Act also provides that no person who has been a member of the Government may be appointed administrator of a nationally owned concern until at least five years after he has given up his position in the Government

orate procedure is provided, by the Act itself, for the case of a Deputy who is offered a position in a state-owned or other analogous concern. In the first place, it is open to such a Deputy to announce his resignation of his own accord. If he does not do so, it is the duty of the Bureau to warn him by registered letter that his automatic resignation appears to be called for, the reason being stated, and that the question of it will be put upon the Orders of the Day of the first sitting following the expiry of one week after the giving of warning to him. If, when that sitting comes, the Deputy has given no notice of opposition, the Assembly simply puts his resignation on record without debate. If he has given such notice, he is entitled to state his case in the Assembly, which may either decide the matter on the spot, or refer it to a Special Committee and await the report of that body. A Deputy who resigns in these circumstances may stand for re-election.

Among former rules of incompatibility which are no longer in force may be mentioned that by which for a few weeks in 1793 the Convention, wishing to preserve itself from newspaper attacks by its own members (particularly by Marat), forbade them to exercise the profession of journalist—a rule that would probably be no more practical today than it appears to have been then. The holding of the editorship of a newspaper was also, from 1849 to 1881, incompatible with membership of either house.

III. THE ELECTION OF DEPUTIES

1. *Electoral Procedure in the Past*

The first three national elections in France since the Liberation have been held under a system of proportional representation. It is a common misconception that this was also the method of election generally used under the Third Republic. This is not the case. In fact, it was not until 1945 (with one short period of partial exception) that proportional representation was introduced.

The electoral procedures used between 1789 and 1945¹ were, with the exception referred to, all variations of two systems under each of which only the largest group of votes cast in each constituency (*circconscription*) obtained representation. The first system was that of voting for individual candidates (*scrutin*

¹ Since the Restoration the successive Constitutions and Constitutional Acts have laid down only the main principles concerning the composition of the various assemblies, the details have been regulated by ordinary acts.

uninominal)—the system which has always been used in territorial constituencies in Great Britain. The constituencies were based on the District (*arrondissement*), an administrative sub-division of the Department (*département*), and this system is therefore also called that of voting by District (*scrutin d'arrondissement*). The other system was that of voting for a list of candidates by simple majority (*scrutin de liste majoritaire*), for this, larger constituencies were necessary, and the Department (which corresponds, very roughly, to an English county) was used.

The one exceptional period covered the general elections of 1919 and 1924, at which an incomplete form of proportional representation was used—incomplete in that minorities were only represented in those constituencies in which no list of candidates secured an absolute majority over all the others. The results were considered unsatisfactory, and the system was abandoned in 1927. In 1945, however, the Government, after consulting the Provisional Consultative Assembly, laid down by the Ordinance of 19th August that the elections to the (first) Constituent Assembly should, in the great majority of constituencies, be held under a system of proportional representation. The second Constituent Assembly was elected under the same ordinance, and itself laid down for the first National Assembly a system similar in its main principles.¹

2. *The Elections for the National Assembly in 1946*

The National Assembly, as at present constituted, contains 619 deputies, distributed as follows:

Mainland France	544
Guadeloupe, Martinique and Réunion (3 Deputies each)	9
French Guiana	1
Algeria ..	30
Other Overseas Territories	35
	<hr/>
	619

All constituencies are represented by two or more members,

¹ The details of this system are contained in the following legislative and administrative enactments: Act No 46-2151 of 5th October, 1946 (the main general enactment), amended in minor details by Acts No 46-2156 of 7th October, 1946, No 47-1606 of 27th August, 1947, and No 48-594 of 1st April, 1948, and Decrees Nos 46-2187 and 46-2517 (making further general rules), Nos 46-2198 and 46-2199 (concerning Algeria), No 46-2188 (concerning Guiana), Nos 46-2189 and 46-2192 (concerning all territories within the sphere of the Ministry for Overseas France) and No 46-2191 (concerning Madagascar and the Cameroons).

elected by proportional representation, except that of Guiana and certain other overseas constituencies, which elect only one Deputy each by simple majority vote. In mainland France each constituency is a Department or, in the case of seven heavily-populated Departments, a special subdivision of a Department. Guadeloupe, Martinique, Réunion and French Guiana, four old colonies with the status of Departments of France, constitute each a single constituency. In Algeria each of the three Departments forms a constituency, except that, for elections by the second panel, the Department of Constantine is divided into three. In the Overseas Territories, the constituencies are the established administrative units, except in the case of the Cameroons and Madagascar, each of which are subdivided. Seats were allotted to each constituency in accordance with the number of electors registered. In mainland France the number of Deputies to a constituency varies from 2 to 11, there being, in general, 1 Deputy for every 50,000, or fraction of 50,000, electors.

In all constituencies which returned more than one Deputy, the general election for the National Assembly in 1946 was held by the method technically described as "voting for a list, at one ballot only, with proportional representation, mixed or incomplete lists not being allowed".¹ Candidatures were submitted in each constituency not by individuals but by parties, in the form of lists of names—as many names as there were seats to be filled. The elector voted by placing in the ballot box a paper bearing, in a numbered order, the names submitted in one of the lists. By this action he both voted for the list of his choice and indicated the order of his preference for the candidates on it. The votes were counted in each constituency by a committee composed of five members drawn from the local judicial and administrative officials, each party which had presented a list might send one representative to assist this committee.

The committee's job was not simply to add up the votes given for each list, it had also to decide the allotment of the seats among the lists, in proportion to the votes cast. This could be done in several ways. The method chosen was what is described in the Act concerned as "the rule of the highest average" ("la règle de la plus forte moyenne"). Under this rule the seats are allotted one at a time, a separate calculation being

¹ This form of election by proportional representation has, during the last hundred years, been used, with various modifications, in a number of European countries (notably in Germany under the Weimar Republic). It was first used in France at the municipal elections of 1945.

necessary for each seat. The argument behind the rule is that if each list were to receive one seat more than it already has, the list which would most deserve that seat would be the one which would then represent the largest number—the “highest average”—of voters per seat. The simplest mathematical method of ascertaining which list has the “highest average” is to divide the number of votes cast for each list by the number of seats already allotted to it plus one. One seat is allotted according to the result of this calculation, which is then repeated as many times as there are seats remaining for distribution.

An imaginary example should make this process clear. Suppose that in a constituency in which four lists are competing for five seats, the votes are cast as follows:

List A	28,800 votes
List B	14,000 votes
List C	12,800 votes
List D	5,200 votes

For the first calculation the divisor is 0 (no seats having yet been allotted) plus 1, i.e., 1; and the “average” in this case is simply the total number of votes received. The first seat will thus go to List A. For the second calculation, while the “average” for lists B, C, and D remain the same, in the case of List A the divisor is now 1+1, i.e., 2, and the “average” sinks to 14,400; but as this is still the “highest average”, List A gets the second seat as well. At the third round, however, the divisor for List A will be 3, and its “average” only 9,600; the third seat will therefore go to List B. The “average” of List B then sinks to 7,000, and the fourth seat will go to List C. For the fifth and last seat the “average” will thus be calculated as follows:

List A	28,800
	—————=9,600
List B	3
	14,000
	—————=7,000
List C	2
	12,800
	—————=6,400
List D	2
	5,200
	—————=5,200
	I

The fifth seat will therefore go to List A, and the complete

distribution will give List A 3 seats, Lists B and C 1 seat each and List D none.

Finally, the committee had to determine which individual candidates on each list should receive the seats allotted to that list. They might well find that this problem had already been settled for them. The printed copies, provided by the parties, of each list showed the candidates in an order of preference fixed by the party concerned, the names being numbered 1, 2, etc. These copies might be used as voting papers, and if more than half of the voting papers given for a list consisted of such printed copies without alteration, the seats were given to the candidates on that list in the order chosen by the party. The elector might, however, alter the order, by writing different numbers opposite the names. He might also write out one of the lists by hand in a different order, and vote with this manuscript list, provided that it contained all the names shown on the printed copy.¹ The mixing of names from different party lists into a list of the elector's own choice, a proceeding recognised in some former electoral systems and known as *panachage*, was not allowed. If half or more of the voting papers given for a list placed the candidates in an order different from that originally on the printed form, the Committee had to determine the average order of preference expressed, and to allot the seats accordingly.

Such was the system under which the first National Assembly of the Fourth Republic was elected. The main argument in its favour is that it did produce a relatively fair representation of the contesting parties, as the figures and votes cast for and seats gained by the parties showed.² There are, however, many people in France who felt, and still feel, that its disadvantages more than compensate for this. The most obvious of these is the series of calculations which have to be performed by the committees responsible for the counting. Even though the elector himself has a simple task to perform, the knowledge that his vote is to be the subject of manipulation by officials, however scrupulous they may be, is bound to be a source of irritation and cynicism. Further, the comparatively large constituencies which this, and any other, system of proportional representation necessitates, is disliked by many Frenchmen who hold that in constituencies of the size of a Department the Deputy is too remote from his

¹ He might not, however, use any printed list other than one of those provided by the parties

² For these figures see *Reports from France* (published by the French Ministry of Information), No. 57 (30th November, 1946)

electorate, whereas under a system of voting by district (*scrutin d'arrondissement*) his ties with it are close and direct¹. Finally, the fact that the voter has so little choice among individual candidates has given rise to much criticism. The power of the parties (so it is argued) is increased at the expense of the citizen. At the elections to the two Constituent Assemblies, indeed, the selection of individuals was entirely controlled by the parties, since no alteration of the order on the printed list was allowed. General discontent with this procedure caused it to be modified for the elections to the National Assembly, in the manner already described. The parties, however, still kept the initiative, since they alone might print ballot papers. To the average elector, perhaps already puzzled or doubtful, it meant an extra effort to rearrange the printed order of names. In the event, according to the calculations of the newspaper *Le Monde* (12th November, 1946), only 17% of those who voted did so. This neglect probably reflected a general sense of the uselessness of this limited freedom of choice, rather than wide agreement with the preferences shown by the parties. It is therefore not unlikely that alterations in the electoral system may be made for the next general election. In this connection, however, it at present appears probable that political controversy will play a greater part than any other factor.²

One further consequence of the system at present in use is that the death or retirement of a Deputy does not normally cause a by-election. The gap is filled by the highest unsuccessful candidate on the list of the party concerned.

In the small number of constituencies, all of them overseas, which returned one Deputy only, the election was a much simpler affair, the seat being allotted to the candidate who gained the highest number of votes at a single ballot. In a number of such constituencies the electors were divided into two colleges (*collèges*)—one of citizens of French status (*citoyens de statut français*) and the other of natives (*autochtones*). A similar division, in this case, into a “first” and “second college”, was

¹ In former times it used to be argued that a system of voting by District brought the Deputy into too close contact with local interests and led to corruption.

² Voting by lists is not, of course, a necessary accompaniment of proportional representation. In Britain the system of proportional representation best known is that of the “single transferable vote” under which the elector votes for an individual candidate. In this form, proportional representation was used at General Elections from 1918 to 1945 in certain university constituencies, under section 20 of the Representation of the People Act, 1918 (repealed in 1948). Its use could have been, but never was, extended (under the same section) to the election of not more than 100 other members.

made in Algeria, where, however, each constituency elected more than one member under the same system as in mainland France.

Various other rules of electoral procedure were laid down in the enactments named on p. 86, some of which may be mentioned. A would-be candidate offered himself for election by presenting a declaration at the Prefecture of the Department concerned, or other appropriate administrative centre. This declaration contained his name, the date and place of his birth, and other information varying according to the nature of the constituency. In constituencies returning more than one Deputy each contending party presented a declaration on behalf of all the candidates of its list, on this it had to state the name of the list, and the order of preference of the candidates. A party might not present more than one list, which must contain the same number of candidates as there were seats in the constituency. No individual might be a candidate in more than one constituency.¹ In all cases in which two or more candidates tied for a seat, it was to be allotted to the eldest.

Each candidate had to deposit a security (*cautionnement*) of 20,000 francs.² He received this back after the election and certain of his or his party's electoral expenses were paid by the state, unless he (or his list, as the case might be) received less than 3% of the votes cast in the constituency. The deposit was also forfeited by a candidate who withdrew after his declaration had been presented. A special allotment of paper was made for use in propaganda and for voting-papers, and a committee was appointed in each constituency to oversee its distribution to the parties and that of the voting-papers to the electors. During the election electoral posters were exempted from the stamp-duty normally levied on posters; they could, however, only be placed on special boards, provided by the state.

It has long been the practice that, on the completion of an election in a constituency, the committee responsible for the counting of the votes draws up a report (*procès-verbal*). This is sent, with all necessary supporting documents, to the office of the President of the Assembly.

¹ The entering of a candidate in more than one constituency (*candidature multiple*)—with or without his knowledge—was once a recognised practice in France. It has been illegal since the passing of the Act of 17th July, 1889, “relative to multiple candidatures”, the provisions of which were expressly made applicable to the elections of November, 1916.

² A little under £42 at the rate of exchange current at that date.

1. Nature and History of the Procedure

A newly elected National Assembly will meet for the first time on a date selected by its predecessor,² and probably named in an electoral act. But at this first meeting it will not yet be fully constituted. The Chair will be taken by the eldest Deputy, assisted by an "Age Bureau" (as described in Chapter V); and the first business must be the process known as the Verification of Credentials (*la vérification des pouvoirs*) of the new Deputies. Only when the Credentials of one more than half the Deputies have been verified (that is, confirmed) can the Assembly proceed to the election of its regular Bureau; and until the President has been installed, no debate can be held.

The Verification of Credentials was already an old and recognised proceeding when it came before the States-General of 1789 as their first business, and so provided the battle-ground for the historic dispute as to whether the three Orders should sit separately or together. The Constituent Assembly of 1789, two days after it had come into being, claimed for itself the right to examine and pronounce upon the validity of the mandates of its members. During the Consulate and the Empire the Legislature lost this right. It was successfully reclaimed by the Chamber of Deputies in 1814 and confirmed to it by law in 1831. Since that date the principle has never been questioned. The present Constitution specifically assures to the Assembly the right to decide upon the eligibility of its members and the regularity of their election.³

The manner in which the Verification of Credentials is carried out has altered little since 1814. In brief, it consists of a preliminary examination in a *bureau*,⁴ followed by consideration in the Assembly, which makes a final pronouncement of validation or non-validation.

2. Proceedings in the Bureaux

The reports from the committees responsible for counting the votes in the constituencies are distributed among the *bureaux* by alphabetical order of constituencies, so as to give each *bureau*, as

¹ S O 3 to 8

² The date for the first meeting of the National Assembly elected in 1946 was fixed by the second Constituent Assembly of that year, and named in the Transitional Provisions (Part XII) of the Constitution

³ Copst., art. 8 (and S O 3)

⁴ The whole Assembly is divided by lot into ten *bureaux*, as described in Chapter VII

far as possible, the same number of individual candidatures to examine. Each *bureau* then divides itself, by lot, into committees of five or more members, which perform the detailed examination of the reports. The *bureau* as a whole draws up its own report (*procès-verbal*) on the election in each constituency referred to it, and must present it within a fortnight, unless granted an extension of time. Protests (*protestations*) about the proceedings at or circumstances of elections may be addressed to the President of the Assembly by anyone who wishes, and are referred by him to the appropriate *bureau*. A *bureau* is free to set what store it wishes by any protest received, but will usually mention a protest of any seriousness in its report. It will generally make a definite recommendation either that the election shall be validated or that it should be invalidated; but it is entitled to present an inconclusive report.

3. *Proceedings in the Assembly*

As soon as a report has either been printed and distributed, or published in the Official Journal, it can be put on the Orders of the Day for consideration by the Assembly. If it is favourable and no amendment or notice of intention to speak upon it has been received, it is considered at the beginning of the next sitting, and the proceedings are purely formal. But such a report is debatable, and if notice of intention to speak upon it, or an amendment, has been presented, and in the case of an unfavourable or inconclusive report, a later occasion must be arranged for its consideration. The Assembly may accept or reject the report, or refer it back to the *bureau*, which must then make a supplementary report. It may also refer the election to a Committee of Enquiry, and postpone its decision until this committee has reported. Such a committee must consist of ten members, one being nominated by each *bureau*. In the case of an inconclusive report, the Assembly is called to vote upon the validation of the election. A definite decision, favourable, or unfavourable, upon a report finally validates or invalidates the election concerned. If the whole election in a constituency is invalidated, a fresh election must be held; but if only that of a single candidate, then his seat is taken by the next highest candidate on the same list.

The Assembly may decide to invalidate an election, either because one or more of the successful candidates is found to be ineligible for the position of Deputy, or because of irregularities in the holding of the election. The cases in which a person is

ineligible for the Assembly have already been described. Electoral irregularities include such happenings as the use of more than one voting-paper by an elector, or bribery by a candidate. Certain forms of corruption, and of threatening or violent behaviour towards an elector, are specified in the Act of 31st March, 1914, "for the repression of corruption in connection with elections." When an election has been invalidated on the ground of an infraction of this Act, the Assembly may refer all the documents in the case to the Minister of Justice. In the second Constituent Assembly of 1946 attempts were also made to unseat several successful candidates (notably M. Reynaud and M. Daladier) on purely political grounds, although it was admitted that they were eligible and that no irregularity had been committed. The Assembly, after debate, validated their elections (overruling a *bureau* in the case of M. Reynaud).

V. PARLIAMENTARY INVIOLABILITY OR IMMUNITY

I. Nature and History of the Principle¹

If a Deputy is to carry out his duties as a representative of the people, he must clearly be free to say what he likes in the Assembly and to vote as he likes without liability to legal action, and generally to conduct his political life without fear of any consequences other than such as must come upon him, as upon any other citizen, should he break the law. Some special protection of this kind has indeed been claimed by most modern legislative bodies for their members. In the case of the House of Commons, it is included in those privileges which descend from distant days of conflict with the Crown and which "the House has always claimed . . . are part of the unwritten law of the land, to be collected out of its own records and precedents, and only to be interpreted by itself",² although some of them have been confirmed by statute. In France such protection is given through recognition of the principle of Parliamentary Inviolability or Immunity (*inviolabilité* or *immunité parlementaire*). This principle was also born of dispute between the Legislature and the Executive; in France, however, it has not been left to exist mainly in unwritten law, but has been given constitutional validity.

Parliamentary Inviolability has a double nature. In one

¹ See Pierre, §§ 1059-1129.

² Sir Gilbert Campion, K.C.B. (now Lord Campion), *An Introduction to the Procedure of the House of Commons* (Macmillan & Co., Ltd London, 1947), p 63.

form it invests the meeting place of the Assembly and the surrounding precincts, and protects Deputies from attempts to injure them in consequence of the actions there. In its other form Inviolability attaches to the persons of Deputies themselves, and defends them in the course of their duties, from attempts to take legal action against them without proper grounds.

2. Local Inviolability

The local Inviolability which invests the Chamber and the speeches made and votes given there, was first claimed by the first National Assembly. Its decree of 23rd June, 1789, declared that "any individual, corporation, tribunal, court or commission daring, during or after the present session, to prosecute a Deputy on account of any proposal, advice, opinion or speech made or given by him to the States-General, . . . , are infamous . . . and traitors to the nation, and guilty of capital crime". In more moderate language, such inviolability was proclaimed in the Constitutions of 1791, 1795 and 1799. Thereafter it disappeared from constitutional enactments until the end of the First Empire, and was omitted from the Charter of 1814. It was re-enacted by ordinary law in 1819, and was specifically included in the Constitutions of 1848 and 1852, and in the Constitutional Act of 16th July, 1875. The relevant provisions of the latter were extended in 1944 to the members of the Provisional Consultative Assembly and in 1946 to those of the Constituent Assemblies, and repeated with small additions in the present Constitution.

"No Member of Parliament", lays down article 21 of that enactment, "may be prosecuted, pursued, arrested, detained or brought to trial on account of opinions expressed or votes given by him in the exercise of his functions". A Deputy therefore can, speak or vote as he likes in the Assembly, knowing that no legal action (such as a suit for slander, for example) can be brought against him in consequence of what he says or how he votes. In this respect he is in the same position as a British Member of Parliament. The phrase "in the exercise of his functions" includes the functions of a Deputy as a member of a committee, or as a witness¹ before a committee. It has also been held to cover those of a Deputy carrying out a parliamentary enquiry outside the precincts of the Assembly.²

¹ Witnesses, other than Deputies, who appear before a committee empowered to make an inquiry are in the same position as witnesses called in a court of law. No additional degree of protection is given to them.

² See Pierre, §§ 1113-1114

3. Personal Inviolability

The Inviolability which attaches to the persons of Deputies dates also from the decree of 23rd June, 1789, in which it was laid down that "the person of every Deputy is inviolable". The principle was elaborated in 1790 and in the Constitution of 1791, abrogated for a time in 1793-4 by the Convention to the disadvantage of its own members and in the subsequent reaction re-enacted with great elaboration in the Constitution of 1795. The Constitution of 1799 gave some protection to Senators, Tribunes and Deputies, but the subsequent constitutional enactments of the Consulate and the Empire were silent on the subject. The Charter of 1814 (arts. 51 and 52) granted Inviolability to the Deputies of Departments¹ and originated the phraseology in which, developed through the Constitution of 1848, the Organic Decree of 2nd February, 1852 and the Constitutional Act of 16th July, 1875 (extended by enactments of 1944 and 1946), the principle is still expressed in the Constitution today. The only difference between the provisions of 1875 and those now in force is that under the former the force of Inviolability was confined to the period of the session, whereas now it has been extended to cover a Deputy for the whole period in which he enjoys that position.

"No member of Parliament", lays down article 22 of the present Constitution, "may, so long as his mandate lasts, be prosecuted or arrested on a charge of any crime or misdemeanour (*en matière criminelle ou correctionnelle*)² without the authorisation of the Chamber to which he belongs, unless he be taken in the act of committal. The detention or prosecution of a Member of Parliament is suspended, if the Chamber to which he belongs so requires". The Penal Code provides for the punishment of any police officer or member of the judiciary who contravenes these provisions. The protection so provided, although known as personal Inviolability, in distinction from the Inviolability which invests the locality of Parliament, does not cover the person of a Deputy as an individual. It attaches to him solely in his capacity as a Deputy. While he remains a Deputy, he cannot divest himself of it, even if he wishes. "In-

¹ Under art. 34 of the Charter, Peers received additional protection, in that they could only be tried on a criminal charge by the Chamber of Peers itself. In 1852 Senators were accidentally omitted from the decree mentioned, inviolability was extended to them by *senatus-consulte* in 1858, and in 1875 Senators were put in the same position as Deputies.

² A *délit correctionnel* in French law is a misdemeanour punishable with imprisonment for not less than five days and not more than five years. Inviolability in relation to such a charge was first given validity in 1875.

violability . . . is not a privilege created for the profit of a category of individuals, it is a measure of public order enacted for the purpose of placing the Legislative Power out of reach of injurious attack by the Executive Power"¹ Its modern use, in normal times, is not to make Deputies immune from the consequences of committing a crime or misdemeanour, but to ensure that they are not subjected to frivolous or purely malicious prosecution of political rather than judicial origin. It does not give any protection from civil actions

4. Requests for Authorisation to Prosecute

If, therefore, either the Government itself or any Department of State, or an individual citizen, wishes to initiate proceedings against a Deputy on a charge of crime or misdemeanour, the permission of the Assembly must first be sought. Even when a Deputy is already under arrest, having been alleged to have been taken in the act, the authorities must obtain the leave of the Assembly before taking any further proceedings (a separate notification of the arrest also being usually given to the Assembly as an act of courtesy) The established method of asking the permission of the Assembly is the presentation, to its President, of a Request for Authorisation to Prosecute (*demande en autorisation de poursuites*) When the Request is made by the Executive, it is usually presented by the Minister of Justice. A private citizen, other than a civil servant, must support his Request with proof that he is trying to institute legal proceedings, but is impeded by the immunity of the Deputy concerned

Under the Third Republic, and for the first two years of the Fourth, the procedure for dealing with such a Request was not laid down by Standing Orders—nor, indeed, was it even mentioned in them—but was a matter of well established practice. The Request was printed and distributed, and referred to the *bureaux* which were called to meet at an early date in order to choose a committee of ten Deputies (one from each *bureau*).² If, as sometimes happened, a Proposal for a Resolution in relation to the request was presented by a Deputy, it was usually referred to the same committee. The committee considered the Request, and reported to the Assembly recommending either that it be accepted or that it be rejected. The report was considered by the Assembly. If the committee had proposed the rejection of the Request, the Assembly usually accepted its

¹ Pierre, §1062

² See, for example, V R , 6th February, 1947, p 188; and 11th February, 1947 (p 285). This procedure is still used in the Council of the Republic

clusions without debate, but if acceptance of the Request were proposed, debate would almost certainly arise, and the Assembly might express its decision in the form of a Resolution.

The relics of an older committee system¹, which the earlier part of these proceedings represented, were removed on 22nd February, 1949, as a result of the new Standing Order 18 bis, made under Resolution No. 1602 of that date. Under this Order a Committee of Parliamentary Immunity (*Commission des immunités parlementaires*) consisting of 22 members appointed in the same way as are those of the General Committees,² is now to be set up each session. It is to examine all questions concerning the personal Inviolability of Deputies, and to it are to be referred all Requests for Authorisation to Prosecute, and also every Proposal for a Resolution requesting the suspension of the prosecution or imprisonment of a Deputy (a comparatively rare occurrence).

Within a week of the distribution of the documents involved in such a matter, the committee must designate a Reporter. The case is first considered in a sub-committee, of which the Reporter must be a member, and then in the full committee.³ The Deputy concerned, or his representative, has a right to be heard before both bodies. The committee must report on the matter within 30 clear days of the distribution of the documents, and its report is then automatically put at the head of the Orders of the Day of the first sitting day following its distribution. If the committee has not circulated its report within the time allowed, the matter itself—that is to say, a request either to withdraw the inviolability of a Deputy or to suspend a prosecution—is put at the head of the Orders of the Day of the second sitting day following the expiration of the time limit. The debate on a matter of Parliamentary Immunity is limited to the Reporter of the Committee, a representative of the Government, the Deputy concerned or his representative, and one further speaker “for” and one “against”.

The objects of the introduction of this procedure were stated during the debate upon it, by the Reporter of the Committee on the Franchise, the Standing Orders and Petitions, to be three-fold. The committee in a matter of this kind would now, as in almost every other case, no longer be composed by chance, but

¹ See p. 161.

² See pp. 164-5.

³ The proceedings of this committee are bound by two rules which do not apply to the General Committees. Its members have a duty to be present in person, and may not be represented by substitutes, and the committee may not adjourn deliberation unless at least half its members are present.

so as to represent the political groups in proportion to their strength in the Assembly. It would be permanent, and so would come to constitute a body of specialists in a kind of question which was often complicated and delicate. Finally, through the continued existence and increasing experience of this body, there would gradually grow up firmly established rules of practice ("une jurisprudence") which could be applied to all cases irrespective of any political consideration involved.¹ It may be added that the imposition of a time-limit on the deliberations of the committee is also an innovation. The Resolution making the new Standing Order also imposed a similar time-limit on all matters of this kind which were still before committees set up under the old procedure; and it was mentioned in the debate on this provision that such matters had sometimes remained unreported for over a year². The Committee of Parliamentary Immunity was nominated for the first time on 8th March, 1949.

The general principles which govern the consideration of a request for authority to prosecute do not, however, seem to have been altered by the introduction of the new procedure. Indeed, they were very clearly restated, during the debate on the Resolution, by the Reporter already referred to.³ In such a matter the task both of the committee and of the Assembly is a strictly limited one. The object of their investigations is simply to ascertain whether the proposal to bring a charge against a Deputy has a genuine and serious basis—that it is not prompted by any political motive, and has not been put forward without due formality and consideration. The merits of the charge itself can be considered only by a court of law. When the request has been presented by the Government, documentary evidence may be taken by the committee from the Minister of Justice, but it has in the past been unusual for the Government to intervene in the debate in the Assembly. A private person who has initiated a proposed charge may also, under established practice, give written evidence to the committee.

The suspension of parliamentary immunity has not in the past been lightly granted. The presentation of Requests for Authorisation to Prosecute by private persons, for their own motives or on trivial grounds, has been a fairly frequent occurrence, such requests have invariably been rejected. On the other hand, it would probably be true to say that in principle the Assembly would never reject a request by the Government,

¹ V R., 22nd February, 1949, p. 808.

² Ib p. 813.

³ Ib p. 809.

provided that the genuine purpose of the proposed charge was simply to enforce the law, or to maintain law and order. A number of such cases under the Third Republic received most careful consideration, and have provided a series of precedents which, as the first similar case under the Fourth Republic showed, continue to form the basis of current practice.¹

¹This case concerned three Deputies from Madagascar, who were alleged to have taken part in the instigation of revolt in that island. Requests for Authorisation to Prosecute were presented, on behalf of the Minister for Overseas Territories, on 29th April, 1947, and were referred to the same committee (under the old procedure). In the case of one of the Deputies, who was in France, the committee reported in favour of suspension of Immunity, which was granted by the Assembly, after a long debate, on 6th June. In the case of the other two, who were under arrest in Madagascar, the committee sent two of its members there to take evidence from them (a proceeding without precedent); it was not until 1st August that the Assembly considered the committee's report, and decided to suspend the Immunity of both Deputies.

The case continued to give rise to unusual incidents. In the course of the trial of the three Deputies, the indictment against them was changed (the prosecution proceeding under a different article of the Penal Code from that mentioned in the original Request). It was held by a number of Deputies that by this action the Public Prosecutor's Department was going beyond the terms of the Authorisation, and that it should have sought a fresh Authorisation. A Proposal for a Resolution in that sense was debated in the Assembly on 5th June, 1949, and it was at the end of the debate on a Preliminary Motion (to postpone the decision on the Proposal for a Resolution until after the court had announced its verdict) that the incident of the "falsified vote" took place (see p. 145). The Preliminary Motion was carried.

Discussion of the Proposal for a Resolution was taken up again on 8th June, when it was, together with two private members' bills which had meanwhile been presented, referred to the Committee of Parliamentary Immunity (a course to which the Committee on Justice and Legislation took exception). One of these bills, in which it was sought to define more clearly the rules governing the raising of Parliamentary Immunity by the Assembly (as well as by the Council of the Republic and the Assembly of the French Union), eventually passed its Second Reading on 30th July. The proceedings on it, however, had revealed a difference of opinion between the two Chambers, and the Council of the Republic, invoking article 92 of the Constitution, had the bill referred to the Constitutional Committee. At the time of writing the bill has not yet been promulgated as law, and no fresh clarification has been given on the subject which originally gave rise to it—the extent to which the Public Prosecutor's Department is bound by the terms of a request in response to which the Assembly has authorised him to prosecute.

Chapter Five

THE ORGANISATION OF THE NATIONAL ASSEMBLY

I. THE OFFICERS OF THE ASSEMBLY

*1. History and Nature of the Bureau*¹

SINCE THE beginning of their history, French Assemblies have recognised the necessity of having a small body of officers, appointed from among their own members, with a two-fold function—to control proceedings in the Chamber itself, and to look after the general material needs of Deputies. This body has always been known as the Bureau (*le Bureau*). The Constituent Assembly of 1789 had a Bureau consisting of a President and six Secretaries. A Vice-President was first added in 1791, in which year there were also appointed six Commissioners for the Inspection of the Chamber, the fore-runners of the later *Questeurs*. From the Restoration onwards succeeding Bureaux have been constituted of the four classes of officer which are still appointed today, though in the case of three of the classes the numbers of the officers appointed have varied.

At the present time the appointment of a Bureau by each Chamber, is laid down both as a right and as a duty by the Constitution (art. 11). The Bureau in each case is to be elected

¹ The different parliamentary uses of the word *Bureau* must be kept clear

- (i) As is about to be described, the Assembly elects annually from among its members a body of officers known as *le Bureau*. When used in this sense, the words are translated as "the Bureau". The members of the Bureau who are present in that capacity at a sitting (i.e., the President and the Secretaries) are also sometimes referred to loosely as "the Bureau".
- (ii) The words *le bureau* also mean the President's desk. The phrase *déposer un document sur le bureau* means "to present (a document) to the Chamber by placing it on the President's desk". In theory, though not in practice, every presentation of a document to the Chamber is made in this manner. The phrase is thus almost precisely equivalent to the English parliamentary phrase "to lay upon the Table (i.e. of the House)". When used in this sense the words *le bureau* are therefore translated as "the Table".
- (iii) As described in Chapter VII, the whole Assembly is, following a very old tradition and for certain limited purposes, divided by lot into ten sections known as *bureaux*. There is no British equivalent to this procedure, and therefore these sections are referred to throughout as "the bureaux".

annually, at the beginning of the session, and the posts are to be distributed among the political parties proportionately to their representation in the Chamber. Under present Standing Orders, the Bureau of the Assembly consists of the President (*le Président*), six Vice-Presidents (*Vice-Présidents*), fourteen Secretaries (*Secrétaires*) and three *Questeurs*.¹

2. *The "Age Bureau" (le Bureau d'âge)*

When the Assembly first meets at the beginning of a session, it has no established Bureau, as the mandate of that appointed in the previous session has ended.² The first business must therefore be the election of a new Bureau. Some authority, however, is clearly needed to preside over and control the sitting, or sittings, at which the elections are to take place. For this purpose the Standing Orders (following a very old tradition) provide for a temporary Bureau known as the "Age Bureau" (*le Bureau d'âge*).³ This consists of the oldest Deputy, the *doyen d'âge*, as President, with the six youngest Deputies as Secretaries. A list of these is prepared beforehand by the permanent staff. The oldest Deputy is invariably well-known. He takes the Chair at once at the first sitting, declares it open, and invites the six youngest Deputies to take up the posts of Secretaries, adding the formula, "according to the information which I have been given, these are Mr. X., Mr. Y., etc." He then, by tradition, makes a speech to the Chamber in which he reviews the political situation.

The powers of the "Age Bureau" are the same as those of the regular President and Secretaries. Its functions, however, are in principle limited to conducting the debates at which the regular Bureau is elected. No other form of debate may take place so long as the oldest Deputy remains in the Chair (though the Government sometimes makes announcements at such preliminary sittings). In the supervision of the elections, a long and tedious task, the Secretaries are assisted by additional scrutineers (*scrutateurs*) chosen by lot.

3. *Election of the Regular Bureau*⁴

At the beginning of a new Legislature, the first business of the Assembly must be the Verification of the Credentials of its

¹ S O 10.

² Essential interior administration is, however, carried on under the authority of the retiring President and *Questeurs*, until the new Bureau is constituted (Pierre, § 413.)

³ S O 2.

⁴ S O 4-11.

members (described in Chapter III). As soon as the Credentials of more than half the Deputies have been validated, the Assembly can proceed to elect its regular Bureau. At other sessions, this will be its first proceeding.

The process falls into two main parts—the election of the President, and that of the other officers. The President is elected at the Tribune, by Secret Ballot.¹ If at the first vote no candidate obtains an absolute majority of the votes cast, a second vote must be held, and if an absolute majority is still not obtained, a third; at this the candidate with the largest number of votes is elected. Under the tradition taken over from the Third Republic, the newly elected President did not take the Chair until the election of the whole Bureau had been completed. As a result, however, of the events at the elections of January 1948, described below, amendments have recently been made to the Standing Orders,² which now provide that the regular President shall take the Chair as soon as his election is announced and oversee the election of the remainder of the Bureau. On assuming office he makes by custom a short speech thanking the Assembly and commenting on the work of the coming session.

Before the second part of the elections can begin, steps must be taken to fulfil the constitutional requirement that the Bureau shall represent proportionately the political groups.³ This clearly would not be assured by a series of open elections to individual posts, it can only be achieved with certainty by previous agreement between the parties. The President, therefore, immediately after he has been installed and has addressed the Assembly, invites the presidents of the political groups to meet him privately in order to draw up an agreed list, in which the various posts shall be distributed proportionately among the parties. Normally this is not a difficult business, the size of the groups being known to all, and the list may well be drawn up in a very short time. It will give the names of the candidates for the posts of Vice-Presidents, Secretaries and *Questeurs* respectively in three sections. The names of the Vice-Presidents are arranged in order of seniority. The order normally has little more than a formal significance, though a certain prestige attaches to the position of senior Vice-President, since the holder of it might have to act in full

¹ See Chapter VI

² By a Resolution of 21st December, 1948, amending S O 2 and 10. Similar amendments to its Standing Orders were made by the Council of the Republic in the Resolution of 14th June, 1949.

³ Const., art. 11

presidential capacity if the President himself was temporarily unable, through illness, to carry out his duties.¹

As soon as the list has been drawn up it is posted in the Lobbies. During the following hour, written notice of opposition to the list may be given. Such opposition is only valid if it is based on the allegation that the provisions of article 11 of the Constitution have not been fulfilled. The notice must be signed by at least fifty Deputies. If no notice of opposition is presented within the hour, the President announces the ratification of the list, and proclaims the election of the new officers. If a valid notice of opposition has been received, the Assembly, after hearing only one speaker "for" and one "against", votes on the question of whether to take the opposition into consideration. If this is defeated, the list of candidates is ratified, but if it is carried, a new list must be drawn up by the party presidents, a process that must theoretically continue until a list is produced which the Assembly agrees to ratify. In practice, however, a prolonged dispute is rare. Even if the party presidents fail to agree, the list they presented is bound to have the backing of the majority of them, and consequently will probably be supported by a majority in the Assembly.²

As soon as the list has been adopted, the President announces the result to the Assembly, and notes that the President of the Republic, and the President of the Council of the Republic will be informed. The Assembly is then fully constituted and ready to proceed to business.

4. Powers and Functions of the Bureau

(1) The Bureau as a whole

The Bureau "has full power to preside over the debates of the Assembly and to organize and direct all its departments under the conditions laid down by Standing Orders" (S.O.9). Its main tasks are thus to ensure the regular and orderly

¹ If a dissolution were to occur while the senior Vice-President were so acting, he would presumably be designated Prime Minister, under article 52 of the Constitution.

² A difficult situation, however, arose during the elections of January 1948, when one party claimed that the list drawn up by the majority of the party presidents was unconstitutional as it did not give them, as the largest party in the Assembly, the post of senior Vice-President. No such requirement is explicitly laid down in the Constitution, but it was held to be implied. As the "Age President" happened to belong to this party, he refused to submit the list to the Assembly. The matter was only settled when, the sitting having been suspended and the party which had complained having left, the Assembly was summoned to meet again under the second-oldest Deputy, who belonged to a different party. The list was then submitted and passed.

holding of debates, and to control the administration of the Palais Bourbon. It also represents the Assembly at official gatherings. In addition, it has an important constitutional function, in that, at times when the Assembly is not sitting, the Bureau can convoke Parliament. This it is bound to do on the request of a third of the Deputies, or of the Prime Minister.¹ By long tradition, members of the Government are not appointed to the Bureau. The resignation of a President in order to become Prime Minister was not uncommon under the Third Republic, and has happened since the war.

(ii) The President

The President himself is the chief representative of the Assembly outside its precincts, and its highest authority within. In the first capacity he is the channel through which communications are made by the Assembly to the Government, the Council of the Republic and other bodies. The Constitution² gives him the duty to promulgate as law bills passed by Parliament if the President of the Republic fails to do so within the constitutional time limit, and to act for the latter in the event of his death or inability to perform his functions.³ The greatest potential power inherent in his office is that which falls to him upon a Dissolution, in the event of which he must under the Constitution⁴ be designated Prime Minister. His opinion must also be sought by the Government, before they decide upon a Dissolution under article 51 of the Constitution. At public ceremonies he yields precedence only to the President of the Republic. He has an official residence within the precincts of the Assembly, in the former Hôtel de Lassay.

Within the Assembly, the President is the highest authority in debate⁵ and in the management of the material necessities and security of the Palace, though his exercise of his powers is always subject to the approval of the Assembly which appointed him. In the course of controlling debate (his powers in respect of which task are described in Chapter VI) he not infrequently has to yield to the wishes of the Assembly, but administrative matters are generally left without question to him and to the services under him. In the sphere of security he has the additional support of law, which gives him a specific

¹ See Constitution, art 12

² Art. 36, also S.O. 87

³ Art. 41.

⁴ Art. 52

⁵ S.O. 41.

responsibility for the security of the Assembly, and the right to require the aid of armed force and of all public authorities¹. The Standing Orders² confirm this responsibility, and place the police of the Assembly under his orders.

There is no recognised procedure for removing from office or censuring a President, nor are successful attempts at either proceeding likely to be made. The Deputy elected to the position is naturally one who enjoys wide support in the Assembly. Moreover, since the office is held only for a year, a President would probably not enjoy it for long once he had lost the confidence of his fellow-deputies. The Assembly has on occasion expressed its confidence in the President through a Resolution.

(iii) The Vice-Presidents and Secretaries

The function of the Vice-Presidents is, when necessary, to relieve the President in the Chair, by arrangement with him and with each other. When occupying the Chair, a Vice-President is invested with exactly the same powers to direct debate and maintain order as is the President himself. When not in the Chair, however, he is free to act as an individual Deputy and as the member of a party, and is under no obligation to preserve impartiality. It is, in fact, a frequent practice for Vice-Presidents, when not in the Chair, to take a full part in political controversy. The special task of the Secretaries is to oversee the holding of votes and the counting and checking of the votes given. At least two of them must always be present during sittings, in their capacity of members of the Bureau, special places being reserved for them below the President (see pp 127-8). Here they are in a position to draw the attention of the President to points of order arising during the sitting. They also supervise the drawing-up of the Minutes, and sign them together with the President or the Vice-President who presided at the sitting.³ The office of Secretary is not one of very great importance or prestige, but the existence of the rule that Secretaries must always be in attendance is an indication of the reluctance which French assemblies have generally shown to entrust powers to their Presidents without restriction.

¹ His power in this respect (as well as the identical powers of the Presidents of the Council of the Republic and of the Assembly of the French Union) were recently re-affirmed in clause 5 of Act No 50-10 of 6th January, 1950, "amending and codifying the law relating to the public powers".

² S O 101

³ S O 41.

(iv) The *Questeurs*¹

The *Questeurs* are in charge (under the President) of the administrative and financial arrangements of the Assembly. In the former category fall such matters as the policing and security of the buildings, their repair, cleaning and furnishing, the allotment of rooms, and the arrangements for the admittance of the press. The Assembly is by law financially autonomous². It decides, by Resolution, what sums of money it will need to meet its ordinary annual, and any other, expenditure and the Ministry of Finance is bound to pay these sums to its account. The credits are entered in the national Budget for the sake of form. The administration of the expenditure sanctioned by the Assembly is supervised by the *Questeurs*, and no new day-to-day expenses may be incurred without their previous consent. They also supervise the accounts of the Assembly. These, when complete, are examined by the Accounts Committee (*la Commission de comptabilité*) from which all members of the Bureau are excluded. The *Questeurs* reside in the Assembly buildings.³

5. *The Permanent Officials*

Under the directions of the Bureau, the numerous and various tasks which go to the smooth running of a parliamentary assembly are carried out by a large staff of permanent officials. At the head of these is the Secretary-General, whose position corresponds to that of the Clerk of the House of Commons. Under him various departments deal with the preparation of the Orders of the Day and the drawing up and preservation of the various records of the Assembly, provide secretaries to the committees and give technical advice. There is a large library, and separate departments which provide Deputies with the latest French and foreign publications. Other departments deal specially with the subjects within the sphere of the *Questeurs*. A large number of messengers (*hussiers*) are employed about the buildings.

¹ There is no exact English equivalent of the word *Questeur*. In the House of Commons many of the functions corresponding to those here described are carried out by the Sergeant at Arms and his Assistant and Deputy. But these officers are not Members of Parliament, and it would be misleading to translate *Questeur* by the English title of Sergeant at Arms. I have therefore used the French word throughout.

² See clause 10 of Act No. 50-10 of 6th January, 1950, amending and codifying the law relating to the Public Powers.

³ S.O.'s 111 and 113. For details concerning the Accounts Committee see Chapter VII.

For maintaining the internal and external security of the Palace the Assembly possesses its own police. They consist of a detachment of the Republican Guard (*la Garde Républicaine*), commanded by a colonel. They are directed by the President, in the name of the Assembly. He decides the number who shall be on duty at any time (which normally consists of one company). To a certain extent his control is delegated to the *Questeur*s. Among their daily duties the police provide the formal guard which lines the lobbies through which the President walks to open a sitting, and mount sentries, armed with rifles and revolvers, at the various entrances to the Palace. They are responsible for enforcing order in the public galleries, and in the event of grave disturbance they can be called upon to restore order in the Chamber itself.

II. THE Sittings OF THE ASSEMBLY AND THE ARRANGEMENT OF BUSINESS

I. *The Publicity of Proceedings*

The principle that its sittings should normally take place in public was successfully claimed from the King by the National Assembly in June, 1789. It was inscribed in the Constitution of 1791, with the proviso that the Assembly might also, on the request of fifty members, meet privately in "General Committee" (*en Comité général*).¹ Similar constitutional or legal provisions have, with varying conditions, generally governed the sittings of French legislative assemblies.² The present position is set out in article 10 of the Constitution as follows.

"The sittings of the two Chambers are public. The Verbatim Reports of the Debates and all parliamentary documents are published in the Official Journal."

"Each of the two Chambers may form itself into Secret Committee (*comité secret*)."

The extent of publicity to which parliamentary proceedings have been subject has been modified in the course of time.

¹ Part III, Chapter III, Section II, articles 1 and 2.

² In certain periods, however, their freedom in this respect has been curtailed. Under the Directory the Councils, under the Consulate the Tribune and Legislative Body, and under the First Empire the Tribune, had to meet secretly for certain types of business. Secrecy was imposed on all meetings of the Senate under the Consulate, the First Empire and the Second Empire until September 1869, and on the Chamber of Peers from 1814 to 1830. During part of the Second Empire also, the Legislative Body had to hold a short discussion in secret on every bill before nominating the Committee on it.

The assemblies of the Revolution had Standing Orders limiting the area to which strangers were admitted, but they were timid of enforcing them, and were much disturbed and often over-awed, by crowds of spectators, who at times invaded the floor of the Chamber itself. Such incursions ceased to happen under the Napoleonic institutions, when little interest was taken in the proceedings of the various legislative assemblies, and the practice of allowing them has never returned. From 1814 onwards the presentation of petitions at the Bar has also been forbidden by Standing Order. Today spectators are allowed in the Chamber only in the galleries reserved for their use. To the majority of these admission is by ticket, obtainable from a Deputy or a senior member of the permanent staff. One gallery, however, is kept open, within the limits of its capacity, to any member of the public who chooses to present himself. It is this practice which is held technically to fulfil the principle that the sittings are in public. Spectators are required to remain seated, with uncovered heads and silent, making no sign of approval or of disapproval. The messengers in charge of the galleries are responsible for removing any spectator who behaves in a disorderly manner.¹

2 *Secret Committee*²

The conditions under which assemblies might, or must, form themselves into Secret Committees, were for some years laid down by constitutional or legal provisions. They varied considerably. As already described, at certain periods secret meeting was compulsory.³ In addition, although the meetings of the Lower Chamber under the restored Monarchy and for most of the Second Empire were normally to be in public under the Constitutions in force, the request of only five members was enough to compel them to sit in private. The Constitution of 1848 (art. 39) allowed the Assembly to determine in its Standing Orders by how many members a request for Secret Committee must be supported, the Constitution of May 1870 (arts 29 and 36) left the conditions to be determined entirely by the Chambers;⁴ while the Constitutional Act of 16th July, 1875,

¹ S O 102

² See Pierre, §§ 799-802

³ See footnote 2, p. 108

⁴ The Legislative Body had in fact claimed for itself the right to decide whether or not it should sit in secret, and had passed a Standing Order to give effect to its claim, some months before the Constitution of May 1870 came into force. See Standing Orders of 2nd February, 1870, No 85.

(art. 5) included provisions similar to those of 1848. The present Constitution (art 10) simply accords to the two Chambers the right to form themselves into Secret Committee, leaving them to fix the conditions under which they shall do so.

Under the Third Republic the holding of a meeting in Secret Committee came to be an abnormal proceeding. Its use was in fact confined to the periods of the two world wars. No such meeting has yet been held under the Fourth Republic.

The conditions imposed throughout the Third Republic were similar in each Chamber. A request for Secret Committee was considered valid if supported by a certain number of members (five in the Senate, twenty in the Chamber of Deputies). It was then put at once to the vote without debate. Under the present Standing Orders of the Assembly¹ a request is valid if signed by twenty-five members, whose presence is ascertained by the calling of their names. It is also valid if presented on behalf of the Government or of the Conference of Presidents. In every case it must be put to the vote at once without debate. A request may be presented either before a debate has begun or during its course. The Standing Orders also empower the President to consult the Assembly as to whether the sitting shall be continued in public once more, when the grounds for sitting in secret no longer exist.

The Constitution of 1791 provided, in the passage already referred to, that when the Assembly met privately in "General Committee" the presidential chair should be left vacant, order being maintained by the Vice-President. This resemblance to the English Committee of the whole House has long since disappeared. Secret Committee now simply means the Assembly sitting as such, but in secret. The public and the press are excluded, but a certain number of officials of the Chamber, and civil servants authorised to attend in order to assist ministers, are permitted to remain. Normally, of course, no record of the sitting, nor any list of those taking part in a vote during it, are published. During the 1914-18 war it became a rule of practice in both Chambers that the Minutes of a meeting in Secret Committee should be approved in secret, and that a Verbatim Report of the proceedings should be kept, but should be at once stored in the Archives of the Chamber concerned. The present Standing Orders authorise the Assembly to decide subsequently to publish the Verbatim Report of a Secret Committee. Naturally, no person present at a Secret Committee ought to divulge anything which has

¹ S.O.40

been said at it, but no measures have been prescribed against anyone who does so.

3. *The Days and Times of Sittings*

The Constitution (art. 9) lays down that the Assembly shall meet in annual session on the second Tuesday of every January. It follows from this that a session (*une session*) cannot last longer than one year. It is in fact the custom to close each annual session on or before 31st December, theoretically if not actually (see below). The practice of the Assembly, in so far as it has yet become regular, is to sit from the second Tuesday in January until Easter, when an adjournment (*ajournement*) of one month is usually taken. The session is then continued without any other long break until some time in August, when a long adjournment, lasting till late October or the beginning of November, is taken. On resuming, the Assembly generally sits until 31st December, without any break at Christmas. The fall of a Government may at any time cause a break of several days in the sittings of the Assembly, or its unexpected recall during the course of a long adjournment. In 1947 and in 1950 an Extra-Ordinary Session was held between the close of the annual session of the previous year and the opening of the next on the second Tuesday in January.

Within each session, the Assembly is bound by few rules as to the days on which it meets. The Standing Orders do indeed lay down that "The Assembly shall meet in the afternoon of each Tuesday, Thursday and Friday",¹ leaving sittings at any other time to be the subject of a special decision; and that "in principle" the whole of Wednesday and the mornings of other days shall be devoted to Committee work."² In practice, since the war the pressure of business has been so great that the Assembly has frequently met in the mornings as well as in the afternoons of all days from Monday to Friday, and on a number of occasions on Saturdays and Sundays as well; and Committee work has had to be carried on during sittings.

The hours at which each sitting (*séance*) begins and ends are controlled only by custom and the convenience of the Assembly. A day may contain one, two or three sittings. The most frequent is the afternoon sitting, which begins normally at 3 p.m., and may last till 8 p.m., usually with a suspension of

¹ SO 40

² SO 24. Under the Third Republic, Friday were at one time reserved for Interpellations, and Tuesday and Thursday for legislative business.

half-an-hour or so some time between 5 or 6. This is often followed by an evening sitting, beginning at 9 or 9.30 p.m., and lasting till midnight or later. Less frequently, but by no means rarely, morning sittings are held, from 9.30 a.m. or later, till noon or 1 p.m. Short suspensions may occur at any time during all such sittings. When several sittings take place on the same day, they are referred to as the first, second or third sittings for that day. A day on which the Assembly sits is known as a sitting day (*jour de séance*).

No sitting, however, is bound to end at any particular time, since there is no rule upon this point. It would, indeed, be repugnant to French parliamentary tradition to fix by a permanent rule a time at which the Assembly must end any debate. "A provision assigning a fixed limit to every sitting would be utterly inconsistent with the nature of parliamentary work. The Chamber must always remain free to adjourn or to continue the sitting, in accordance with the progress of the Debate."¹ It follows from this that sittings are sometimes prolonged far beyond the times at which by custom, they usually end. An afternoon sitting may be continued into the hours appropriate to an evening sitting, and beyond that into the next day. The opening sessions of the Fourth Republic have indeed seen a number of "all-night sittings", including some which lasted several days. The one exceptional case where an exact time limit is imposed by the nature of the business—the discussion of the Budget Bill, which should theoretically be passed by the end of the year before the one to which it applies—certainly proves the wisdom of Pierre's rule in relation to the French parliamentary system. It has long been the practice that, when necessary, the clock in the Chamber is stopped on 31st December, just before midnight, and the consideration of the bill continued until, by a fiction, it is completed within the old year. This theoretical time limit has been a frequent cause of long sittings.²

The Assembly is, in fact, able to allot whatever time it wishes to the completion of the programme of work which it has drawn up for itself. The time, number and length of sittings depend entirely on that programme, and the Assembly's ability to get through it.

Every sitting is opened with the same traditional ceremony.

¹ Pierre, § 804.

² Among recent examples of long sittings may be cited the sitting which began at 10.30 a.m. on 29th November, 1947, and lasted, with some interruptions, till 8.20 a.m. on 3rd December, and that of 31st December, 1948, which ended at 2.25 a.m. on 3rd January, 1949.

The President, preceded by two messengers and followed by the Secretaries, walks in procession from his residence to the Chamber. The lobbies through which he has to pass are lined by a guard of honour (provided by the detachment of the Republican Guard which forms the police of the Assembly) who present arms to the beating of kettle-drums.¹ An officer with drawn sword marches on either side of the President. On arrival in the Chamber, the President installs himself in the Presidential Chair. Meanwhile, the announcement that the sitting is about to begin is made throughout the Palace, by messengers and through the ringing of bells. The President waits a certain time (usually about ten minutes) to allow Deputies time to reach their seats, and then declares the sitting open.

4. *The Orders of the Day*²

The daily agenda of the Assembly is drawn up in a list known as the Orders of the Day (*l'ordre du jour*). At one time this was prepared by the President, and submitted by him for approval or amendment by the Chamber. The President naturally consulted other Deputies, such as the Presidents of Committees, who were capable of advising on the progress of business. This informal consultation was first officially recognised in 1911, and developed into what is known as the Conference of Presidents (*la Conférence des Présidents*).

This is attended by the Vice-Presidents (of the Assembly), the Presidents of the committees and the presidents of political groups with at least fourteen members. The President of the Assembly convenes its meeting, once a week when necessary (usually on a Tuesday), and must communicate the day and time fixed to the Government, who have the right to send a representative. The chair is taken by the President. The function of the Conference is laid down by Standing Order 34 as being "to study the arrangement of the business of the Assembly and to make all necessary proposals concerning the regulation of its Orders of the Day". It usually plans out the programme of business for the week beginning with the following day, and draws it up in the form of proposals (*propositions*), which are at once communicated to the Deputies

¹ This ceremony was instituted by the Standing Orders of the Legislative Body under the Consulate. Originally, the whole body of members marched in procession behind the President.

² S.O. 34 and 35. Recent changes are summarised in the Addendum.

by notices in the lobbies, and later printed as an annex to the Verbatim Report of the day.

In drawing up this programme, the Conference is bound by certain rules applying to definite classes of business. The most important of these is that no bill nor Proposal for a Resolution subject to the normal procedure may be put upon the Orders of the Day before the report of the committee upon it has been distributed or published.¹ Other rules are described in later chapters. Within these limits, the Conference has to try to balance the claims of the Government, which will be supported by its representative and by some of the presidents of the political groups, and those of other Deputies, supported by other presidents of groups. The Presidents of committees will to some extent represent the point of view of the Assembly as a whole, and, with the knowledge gained in committee, they will also be able to advise as to the time likely to be needed for each bill.

The Conference is also convoked to plan the organisation of a discussion, whenever this is decided upon (see Chapter VI). It also on occasion holds other exceptional meetings.

The week's programme suggested by the Conference is only provisional. It is a very long established principle of French democracy that a legislative assembly "always retains control of its Orders of the Day" ("*reste toujours maîtresse de son ordre du jour*").² The proposed programme must therefore be submitted to the Assembly at the end of the next sitting after the meeting of the Conference of Presidents. It is then generally subject to debate and often to alteration, before being finally confirmed. The excessive prolongation of discussion on these weekly occasions led, in the second session of the Fourth Republic, to a tightening of the rules. Only one representative of each political group may now speak in such a debate and each speech may last only five minutes.³

Even after confirmation by the Assembly, the programme of work is not irrevocably fixed. The Assembly even then "retains control of its Orders of the Day", and a proposal to alter this could, until recently, be made at any time by the Government.

¹ S O 35. This rule also applies to any other kind of proposal other than Motions of Investiture and of Censure, Preliminary or Incidental Motions, Counter-Bills, and amendments (S O 42).

² See Pierre, § 803.

³ These provisions were added to S O 34 by Resolution No 817 of 17th March, 1948. In the debate on the Proposal for this Resolution it was alleged that a recent discussion of a week's programme suggested by the Conference had lasted three hours—almost the whole of a sitting (V R 17th March, 1948, p. 1793).

or a committee, or, in writing, by a certain number of Deputies specified in the Standing Orders. The abuse of this right also has, however, led the Assembly to limit the opportunity for making such a proposal to the end of a sitting, at which time the President is in any case bound to inform the Assembly of the time and business fixed for the next sitting.¹ The number of private Deputies who may initiate such a proposal was, indeed, lowered from fifty to thirty, but it is now stipulated for the first time that they must belong to at least three separate party groups. Other new conditions now enforced are that in the debate on such a proposal only the proposer of it and one speaker from each political group may take part, each speech being limited to a duration of five minutes, and that a decision to modify the Orders of the Day is only valid if taken at a Vote by Open Ballot, and by an absolute majority of all Deputies. The last mentioned condition had hitherto only been enforced in those cases in which the Constitution requires it.²

Even after recent modifications the system by which the Assembly draws up its programme remains highly flexible. It enables the Assembly easily to arrange, re-arrange and expand its time. Unexpected, though legitimate, incidents, such as the reference of part of a bill back to the committee can thus easily be dealt with. Considerable opportunity is however, afforded for using argument about the Orders of the Day either for a political demonstration or for obstruction. The system also tends, in combination with the absence of a time limit, to lead to excessively long and numerous sittings. The Assembly is not bound, however, to complete the business put down for a particular sitting at that sitting, and can always postpone any item to the next sitting or later.

As regards the allocation of time between the Government and private Deputies, the former is in a very much weaker position than is a British Government, with its extensive control of the time of the House of Commons. The idea that the control of business should rest with the Government has always been repugnant to French parliamentary tradition, and is even now found unacceptable except to a very small extent. Indeed, during the discussion in committee of the

¹ S O 53

² Three further modifications of S O 34 were also made in Resolution No 807 of 17th March, 1948, already referred to. None of the alterations affected by this Resolution have yet been adopted by the Council of the Republic, its procedure in this respect remains the same as that of the Assembly before the passing of the Resolution.

recent alterations to the rules concerning the arrangement of business (just referred to) the committee rejected a proposal that the programme suggested by the Conference of Presidents should be subject to modification in the Assembly only on the initiative of the Government, and the suggestion was not taken up again in the debate in the Assembly. The Reporter of the committee stated that the suggestion "appeared . . . to violate a prerogative of the National Assembly, perhaps even its sovereignty. It would, in any case, conflict with the principle to which the Assembly is particularly attached, according to which the Assembly always retains control of its Orders of the Day."¹

How much a French Government can in practice get its business through depends naturally on its strength as a Government. So long as it has its majority under control, it can always ensure that its measures have priority and are considered at times suitable to it. It cannot, however, prevent the consideration of a certain number of private members' bills and Proposals for Resolutions, and it must always be prepared to face Interpellations.²

The Orders of the Day are published daily in the Order Paper (*le Feuilleton*). This gives the business for each sitting, first any items "without debate", followed by those with debate. To this is appended a list of documents (mostly bills or reports) put into distribution that day, and notices of committee meetings.

III. THE RECORDS AND REPORTS OF THE ASSEMBLY

i History and Nature of the Records and Reports

A parliamentary assembly is bound to attach the greatest importance to the careful recording of its decisions, and, when its meetings are held in public, to the accurate reporting of its debates. Correct records and accurate reporting can only be secured by the publication of an official document, or of several such documents, on the authority of the assembly itself, or of its officers. In the Parliament of the United Kingdom, records and reports are kept separately. The proceedings and decisions of Parliament, that is, the things done in it, are recorded in the Votes and Proceedings of the House of Commons, the Minutes of Proceedings of the House of Lords, and the Journals of each House. These contain no account of what the members of either

¹ V R , 17th March, 1948, p 1793

² See the figures given in Chapter VIII and X

House say,¹ that is given in the Official Report, which reports the speeches in full, but is not an official record of the proceedings. In France these two types of account have never been rigidly separated. Three different forms of daily record, of varying fullness, are, however, published.

The earliest form in which such records were kept was that of the Minutes (*le procès-verbal*). These were at one time kept in manuscript (though they were always subsequently printed), and contained brief resumés of speeches, and records of the decisions taken and the texts adopted. They form the authentic record of the proceedings of the Assembly concerned from 5th May, 1789 onward. In the first three revolutionary Assemblies the Minutes were kept by the Secretaries (who were, of course, themselves members). The practical difficulties of such an arrangement led the members of the Convention to provide by law that the two Councils established in 1795 should each appoint two editors (*édacteurs*) from outside their own members, to whom the keeping of the Minutes should be entrusted, and from that time on all official records have been kept by members of the permanent staff (acting on the authority of the Chamber concerned).

After 1814 the Minutes gradually became a much fuller report, and the speeches of ministers began to be reported verbatim. In 1852 it was decided to issue two separate accounts, a short summary and a detailed Analytical Report, in which speeches though not reported word for word, were given in the form of an extensive précis. Meanwhile it had been the practice since the Revolution for the *Moniteur* (see below) to publish verbatim reports of speeches. This report was not at first official, and in the earlier years is often inaccurate in its recording of texts adopted by the Assemblies. At the Restoration the *Moniteur* was given a contract to make these reports. It was only in 1848, however, under the Constituent Assembly, that the task was undertaken by the Chamber itself, and the Verbatim Report became truly an official document. These three forms of official report still exist today, being known, in order of fullness, as the Verbatim Report, the Analytical Report and the Summary of Proceedings.

The authentic record of the proceedings of the Chamber is now constituted by two corrected copies of the Verbatim Report, signed by the President or, if a Vice-President presided at the sitting concerned, by him. The title of Minutes (*procès-verbal*) is still applied to this record.

¹Except in certain special cases, which occur comparatively seldom

The Verbatim Report, and all other parliamentary documents, are published as part of the Official Journal (*le Journal Officiel*). This constitutes the official gazette of the Government. Its history can be traced back to the Revolution. On 24th November, 1789, the publisher Charles-Joseph Panckoucke, issued the first number of a periodical known as *la Gazette nationale ou le Moniteur universel*, generally referred to simply as *le Moniteur*. It was a private paper, but gave special attention to the publication of official announcements and documents, and of accounts of parliamentary proceedings. From the first it had a close relationship with the Government, which from the beginning of the Consulate till its last number on 30th December, 1868, (with the exception of a short period in 1814 and 1815) made it the vehicle of all official publications. Throughout this time it remained in the hands of the Panckoucke family. In 1868 the Government sold the right to publish an official gazette to the firm of Wittersheim. The new publication was known as the Official Journal (*le Journal Officiel*). In 1880 it was bought outright by the State, and has ever since been run as a Government publication, under the authority of the Minister of the Interior.

The Official Journal today runs to between ten and twenty thousand pages a year and publishes a great variety of official matter. This is divided into six editions. The first is known as *Acts and Decrees* (*Lois et Décrets*). It is published daily, including Sundays, and contains the texts of all acts passed by Parliament, and of all administrative decrees, orders, circulars and announcements of various kinds emanating from the Government. Monthly and annual indexes to it are also issued. The second, third and fourth editions contain the Debates of the National Assembly, the Council of the Republic and the Assembly of the French Union respectively. Each of these is published after every sitting day of the body concerned, and contains the Verbatim Report for that day, and various other matters which are described in connection with the Verbatim Report. Indexes to each of these are published annually. The fifth edition contains the Opinions and Reports (*Avis et Rapports*) of the Economic Council. The sixth, or complete, edition consists of all the matters published in the other five, and in addition a number of annexes published from time to time, containing the texts of all parliamentary documents (which will have been separately printed by the Chamber concerned some time before) and of certain administrative documents not published in *Acts and Decrees*.

In addition, the Verbatim Reports of debates, and all the documents annexed to them in the Official Journal, are also published later in collected form, and with any necessary corrections, in the series known as the Annals of Parliamentary Debates (*les Annales des Débats parlementaires*), which dates from 12th January, 1863.

Each Chamber maintains its own collection of parliamentary documents for purposes of record. Each such collection is known as the Archives (*les Archives*)¹ of the Assembly concerned. The documents regularly kept there include copies of the Parliamentary Annals, all bills, reports from committees, advisory reports from other bodies, minutes of committee meetings, minutes of committees appointed in the constituencies to oversee elections, and various indices and tables.

2. *The Records and Reports Today*

(1) The Minutes (*le procès-verbal*)²

At the beginning of each sitting, the Minutes of the preceding sitting are submitted to the Assembly for its approval. The President uses the traditional words "The Minutes of yesterday's sitting³ have been posted and distributed. No observations?" ("Le procès-verbal de la séance d'hier à été affiché et distribué. Il n'y a pas d'observations?"). In point of fact it cannot always be the case that the Minutes have been posted (in the lobbies) and distributed, since, if the sitting about to begin has been preceded by another on the same day, there may not have been time to do this. It is bound not to be so in the case of the Minutes of the last sitting of a session, which are always considered at the end of that sitting itself.

If no Deputy rises to comment on the Minutes, the President announces that they are adopted. If any serious criticism of their accuracy is made, and an amended text is proposed, the sitting must be suspended. The Bureau at once examines the proposed alterations, and when the sitting is resumed its decision is announced, and the Assembly must decide without further debate, in a Vote by Open Ballot, whether or not to adopt the Minutes (with any amendments which may have been

¹ *Les Archives Parlementaires* is the title of a complete collection of the debates of French deliberative assemblies, and other matters connected with them, from 1787 to 1860, edited by M J Maxidal and M E Laurent and published in 1879.

² S O 41

³ Or "of the first sitting of to-day", or whatever may be the appropriate description.

made). If the Minutes are adopted they must be signed by two of the Secretaries, as well as by the President. If they are not adopted, they must be put down for debate at the head of the Orders of the Day for the next sitting. In the meanwhile the authenticity of any texts adopted by the Assembly in the previous sitting is guaranteed by a copy of the Verbatim Report, signed by the President and two Secretaries, but not constituting the Minutes, since it does not guarantee the accuracy of speeches and votes¹.

Such proceedings, however, are very rare. Comments on the Minutes are common enough, but seldom, when legitimate, extend beyond the pointing out of minor inaccuracies.² They are frequently used for purposes which are not really in order—such as to explain more fully the meaning of a remark, or to attempt to reopen a discussion which has been concluded.

(ii) The Verbatim Report (*le compte rendu in extenso*)³

The Verbatim Report is the fullest record that is made of the proceedings of the Assembly. Together with the Verbatim Report of the Council of the Republic, it is published in a special section of the Official Journal, under the title of Parliamentary Debates. A new number is normally published for each sitting day.

This contains a full report of the proceedings of the Assembly and a word-for-word record of the speeches made on the day in question, divided into separate sittings, if more than one are held. The account of each sitting is preceded by a Summary (*sommaire*) giving the matter discussed and the decisions reached upon them, and the names of those who spoke. The name of the President or Vice-President who presided is then given. After this the actual record of discussion begins, with the consideration of the Minutes of the previous sitting, and continues through the various items of business until it reaches the confirmation of the Orders of the Day for the next sitting. This is usually the last matter actually announced and open to debate. It is often followed by long lists of bills, Proposals for Resolutions, reports, requests for Interpellations, and other similar documents, the presentation of which is reported as

¹ S.O. 41.

² A case of rejection of the Minutes did however, occur at the first sitting on 6th July, 1949, (after the incident of the "falsified" vote, referred to on p. 145.) The opposition then was of a political nature, no amended text was proposed, and therefore there was no need for any suspension of the sitting. At the beginning of the second sitting that day the rejected Minutes were adopted.

³ S.O. 54, G.I.XI

being announced by the President. Such announcements when printed at this point are "book entries", and are not actually made in the Assembly.¹ The lists of names of those taking part in Votes by Open Ballot are published as an annex to the Report of the sitting in which they took place, and when possible are printed immediately after, but if they cannot be prepared in time, they are printed with the report of a later sitting, sometimes not until the following day. At the end of the number come various announcements, such as the Orders of the Day and the meetings of committees for the next day, the proposals of the Conference of Presidents and, as an annex to that, the names of Deputies appointed Reporters of bills from committees. From time to time a special section records the presentation of Written Questions, and the answers to ones previously presented.

The debates themselves are reported with the greatest fullness. Not only set speeches, but also all interruptions, and every remark that can be heard, are recorded, if possible with the name of the author.² Signs of agreement or disagreement are also noted, and assigned to the sections of the Chamber from which they come, thus clearly showing, to those who know the disposition of the seating, how each party has reacted.³ The behaviour of the spectators in the galleries is not mentioned, though occasionally the presence of an important visitor is noted in the Assembly and recorded in the Report (as on the occasion of Mr Speaker Clifton Brown's visit on 27th November, 1947).

A Deputy may examine the proof of the report of a speech by him, but may not take it out of the precincts. He may point out what he considers to be errors. It rests with the Head of the Stenographic Department, acting under the authority of the President, of the Secretaries who officiated at the debate and of the Secretary-General of the Assembly, whether or not to make a correction in the Report.

¹ Any presentation recorded not at the end of a sitting but between pieces of effective business will have been the subject of an oral announcement. As described in Chapter VIII, such an announcement is sometimes made in the case of a particularly important bill. It is always made on the presentation of a request for Urgent Debate or of any document accompanied by such a request.

² On at least one occasion the Verbatim Report has reproduced an interruption in the form of an inarticulate noise—"Brr!" an ironic expression of pretended fear by a group of Deputies.

³ For example, a typical entry such as "loud applause in the centre and on certain benches of the left, laughter and protests on the extreme left and on the right", indicates whole-hearted approval by the M.R.P. and Radical-Socialists and other centre parties, more guarded approval by the Socialists and combined opposition by the Communists and the right-wing parties.

(iii) The Analytical Report (*le compte rendu analytique*)¹

The function of the Analytical Report "is simply to indicate the main features of the debate". All formal announcements by the President, whether or not actually spoken, and all supplementary announcements (except that of the Orders for the next sitting) are cut out. The speeches themselves are given in a précis, in which all inessential phrases are dropped and which is, on the average, about two-thirds the length of the full report. Only the more important interjections are recorded.

The Analytical Report is prepared with great rapidity by an expert staff. It was formerly printed, but is now roneographed. Each sheet is posted in the lobbies as soon as ready—often within an hour of the proceedings recorded—and a running account of the sitting is thus provided. The complete Report of each sitting is published a few hours after its close. It is used considerably by the press as a basis for newspaper reports

(iv) The Summary of Proceedings (*le bulletin de séance*, also known as *le sommaire*)

This is an even shorter account, containing only "the essential matter of debates and speeches". It appears on tape-machines in the Palace, and is also separately duplicated and posted in the lobbies, and distributed sheet by sheet to journalists.²

IV. THE BUILDINGS OF THE ASSEMBLY

1. *The History of the Palais Bourbon*³

The Palais Bourbon, which has over the last hundred and fifty years become established as the seat of the First Chamber of the French Parliament, is a collection of buildings, the dates of which vary from about the first half of the eighteenth century to the twentieth. The history of its site may be traced back somewhat earlier. At the beginning of the seventeenth century Paris, on the left bank of the Seine, was still mainly confined to an area opposite the Ile de la Cité. Beyond it to the west there stretched an open area of meadows and marshland.

¹ S.O. 54, G.I.X.² G.I.X.³ An official guide-book for the use of visitors was published in 1949 (*Le Palais Bourbon des Origines à nos Jours*, by Jean Marchand, with a preface by M. Edouard Herriot, President of the National Assembly).

Part of this was known as the Pré-aux-Clercs, and belonged to the nearby Abbey of St Germain-des-Prés. It was a famous resort for the holding of duels—a practice which the royal administration tried in vain to stop, but which the Abbot finally ended by enclosing the land with a wall. Within this area was the site now occupied by the buildings of the Assembly

During the seventeenth century building began to creep westwards down the Seine, and near the beginning of the eighteenth the construction of the embankment known as the Quai d'Orsay was started. At about this time begins the individual history of the site now occupied by the Palais Bourbon. In 1718 this was bought from the Abbot, on the King's behalf, in order that new quarters might be built on it for the First Company of Musketeers. The plan came to nothing, as the site was found to be too small, even when a piece of adjacent ground was added, through an exchange of land between the King and the Dowager Duchess of Bourbon.

The Duchess herself, however, now decided to build in the neighbourhood. She bought back the land which the King had received in exchange, and added it to adjoining land already in her possession. Here, in 1722, the Italian architect Girardini began to build for her the Hôtel Bourbon. A very pleasant residence it must have been, with a terrace overlooking the river on one side, and on the other a vast court-yard planted with chestnut trees, from which an ornamental gate-way led on to the road (the rue de l'Université). At about the same time there was built next door to the west the Hôtel de Lassay, which still stands (with an additional story built in the reign of Louis-Philippe). This is now the residence of the President of the Assembly, and is known as the Hôtel de la Présidence.

The Duchess died in 1743. In 1756 Louis XV bought the Hôtel Bourbon from her successors, and in 1764 sold it to the Prince de Condé for a comparatively small sum in recognition of the Prince's services to the state. Condé decided to reconstruct it on a much more magnificent scale.

The site now commanded a superb view across the Seine to the Tuileries gardens and the trees of the Champs Elysées, laid down in the previous century. It was not large enough, however, for the Prince, who acquired still more land, including the Hôtel de Lassay, and in 1765 began to erect an elaborate assembly of buildings, to be known as the Palais Bourbon. The chief architect was Claude Billard de Bélisart (or Bellissard). Condé first inhabited it in 1777 and, although he did not make it his main residence, continued to add to it and

to spend money freely upon it. By 1789 it was considered one of the finest buildings in Paris. He was not to enjoy it for long. Soon after the outbreak of the Revolution, he and his family fled from France, and in 1791, as a result of the decree under which the property of emigrés was confiscated, the palace became state property.

In 1795 the Convention decreed that the Palace should be the seat of the Council of Five Hundred, and certain modifications were carried out in consequence, including the construction of a chamber. The Council held its first sitting there on 21st January, 1798. Under the Consulate and the First Empire it was allotted to the Legislative Body. Between 1804-7 the classical facade, which still faces the Seine, was built. The sculptured scene on the pediment showed "the Emperor presenting the colours captured at Austerlitz to the deputation of the Legislative Body". This was changed at the Restoration to a less romantic allegorical subject.

From 1814 to 1827 the Palace was once more the property of the Condé family, but the greater part of it was leased to the Chamber of Deputies.¹ In 1827 the whole collection of buildings was bought by the Government for 5,500,000 francs. Considerable repairs were by now needed. In 1828 the construction of a new chamber was ordered. During the rebuilding, a temporary hall was put up in the gardens, and it was in this that, on 9th August, 1830, King Louis Philippe swore to observe the Charter. The new chamber was completed in November, 1832. It has been used ever since whenever a legislative assembly has occupied the Palace, except by the Constituent Assembly of 1848 and the Legislative Assembly which succeeded it. These two bodies were too large for it. A special hall was built of wood in forty days in 1848, in the Principal Court, which it almost filled. This was later pulled down.

With the rebuilding of 1828 and the following year² the main portions of the Palace assumed the appearance which they still have, although there have been some alterations and additions to the less important parts since then. Throughout the intervening period the Palais Bourbon has been the site either of the First Chamber or of the only Chamber of succeed-

¹ Condé continued to reside from time to time in part of the Palace. He died in the Hôtel de Lassay on 20th May, 1818.

² An interesting account of the history of the site and buildings of the Palace up to this rebuilding was given by Jules de Jolly, Architect to the Government and the Chamber of Deputies, in the introduction to his *Plans, Coupes, Élévations et Détails de la Restauration de la Chambre des Députés* (Paris, 1804).

ing French legislatures, with the exception of two periods. The first period was from the fall of the Second Empire in 1870 to the return of the Chambers to Paris in 1879. The second lasted from June, 1940, when the Chambers again left Paris, until the first meeting of the Constituent Assembly on 6th November, 1945.¹ During the German occupation of 1940-44 the Palace was used by the Secretariat of the Military Tribunal of the Luftwaffe. In August, 1944, at the moment of liberation, the Germans decided to defend it, in conjunction with the neighbouring Ministry of Foreign Affairs. Fighting took place in the surrounding streets, and some rooms near the Library were burnt. These have since been restored. Finally, in 1947 the title "Chambre des Députés", which formerly appeared in gold lettering upon the northern facade, was replaced by the words "Assemblée Nationale".

The Constitution of 1946 made no specific provisions for the locality of Parliament. This omission was remedied by ordinary law² in 1950. It was then laid down that the normal seat of Parliament shall be in Paris, and the Palais Bourbon was allotted for the use of the Assembly. When mobilisation has been ordered, or in certain circumstances of international crisis, Parliament may be authorised to leave Paris. The date on which it shall move, and the place where it shall then establish itself, are to be laid down by Cabinet decision, taken in agreement with the President of the Assembly and after hearing the views of the President of the Council of the Republic, and promulgated in the form of a decree.

2. The Arrangement of the Buildings

The most familiar view of the buildings as they have existed for the last century and a half, is that of the Napoleonic classical facade, with its twelve Corinthian columns above a flight of steps, which looks across the Pont de la Concorde. This facade, though it forms one of the two main fronts of the Palace, gives a somewhat misleading idea of the extent and layout of the buildings as a whole. These form an irregular quadrilateral, the sides of which are each about two hundred yards long and face approximately north, south, east and west. About half of the northern side consists of the Napoleonic façade and the

¹ Early in the 1914-18 war the Government and many members of the two Chambers moved to Bordeaux and remained there for a short time, but no meeting of the Chambers was held there.

² See clauses (1) and (2) of Act No 50-10 of 6th January, 1950, "amending and codifying the law relating to the public powers"

flanking buildings of the Palais Bourbon proper, the other half of the gardens in front of the Hôtel de Lassay. This orientation conforms with the roughly east to west course taken by the western portions of the Quai d'Orsay and the rue de l'Université, which form respectively the northern and southern boundaries of the Palace. But the regularity of the northern side is broken in its eastern half. The Quai makes a considerable bend opposite the eastern end of the Hôtel de la Présidence, with the result that the Pont de la Concorde (which was built more than twenty years after Condé had begun his rebuilding) runs, not north, but roughly north-north-east. The architect Poyet had thus to fit a façade facing in the latter direction on to a building the main axis of which was north to south—a problem which recalls that caused to Barry at Westminster by the fact that Westminster Hall does not lie parallel to the Thames. This irregularity is masked on the outside by the ornamental garden at the north-east corner of the Palace, and concealed on the inside through the arrangement of the rooms surrounding the Chamber.

The second main front of the Palace is formed by the opposite side of the principal building which is in fact the original façade of Condé's palace, and looks south over the Court of Honour (*le Cour d'Honneur*), and, beyond that, the Principal Court (*le Cour Principale*). Through this front, entry is gained into the lobbies (*coulours*). These consist of well-furnished sitting and writing rooms, as well as a waiting room (*salle des pas perdus*), in which constituents, journalists, and other authorised members of the public can converse with Deputies. The lobbies form three sides of a square, surrounding the Chamber itself. In the central lobby, over a doorway which leads towards the Chamber, is a sculptured relief of the famous scene when Mirabeau confronted the royal Master of Ceremonies on 23rd June, 1789.

To the west of the Palais Bourbon proper lies the Hôtel de la Présidence, the elegant and richly furnished residence of the President of the Assembly. From the block formed by these two buildings three wings containing many offices, committee rooms, the residence of certain officials, etc., run south to the rue de l'Université. The eastern contains the Library, which has a ceiling painted by Delacroix. This wing, and the central one, form two sides of the Court of Honour and the Principal Court, the main entry to which is a gateway in its southern side leading on to the Place du Palais Bourbon. This is known as the Entrance of Honour (*l'Entrée d'Honneur*). The entry

normally used by Deputies when coming from the direction of the Seine is the inconspicuous “*Entrée de MM. les Députés*”, which is approached by a small courtyard (*le Cou du Pont*) and leads into the piece of building which joins the Hôtel de la Présidence to the Palais Bourbon proper, and thence into the *salle des pas perdus* and the other lobbies.

3. *The Chamber (la salle des séances)*

It is recorded that when the members of the States-General arrived at the *Salles des Menus Plaisirs* for their first meeting on 5th May, 1789, they found that the benches prepared for them had been arranged so as to form a semi-ellipse, or elongated semi-circle. The diameter of this was formed by a dais, on which was placed the throne. The benches for the Clergy were on the King's right, those of the Nobility on his left, and those of the Third State filled in the semi-circle between the other two.¹ Such an arrangement of seating became at an early date the traditional form for a French legislative chamber. The earliest chamber (*salle des séances*) within the Palais Bourbon was that constructed between 1795 and 1797 for the use of the Council of Five Hundred. It was semi-circular in form, and the general arrangements were similar to those still in use. The provisional wooden chamber used during the Second Republic was housed in a rectangular building, the seats being arranged in a long semi-ellipse.

The present chamber, completed in 1832, is almost exactly semicircular. It is often referred to colloquially as “the semi-circle” (*l'hémicycle*). Its diameter, which is some forty yards long, runs east and west behind the southern front of the main building of the palace, with the arc of the semicircle to the north of it. The two main entrances, which are approached through the lobbies, are at each end of the diameter.

In the centre of the diameter and parallel to it stands a platform, about fifteen yards long and three yards deep, and approached by a flight of nine steps at either end. This is the Tribune (*la tribune*). In the middle of it and raised a few feet higher, is a smaller platform on which is the Presidential Chair (*le fauteuil*), facing a massive desk (*le bureau*). Both these pieces, which are of mahogany ornamented with bronze decorations, were first used by the Council of Five Hundred. The Secretary-General occupies a small seat somewhat behind the President and to his right. On either side of the desk, on the level of the

¹ See the description in the *Moniteur* of 5th May, 1789 (No. 1).

main platform, sit the Secretaries and the officials in charge of the production of the Verbatim and Analytical Reports. The wall behind the Tribune is decorated with tapestry and sculpture. Immediately in front of the President's desk stands a separate oblong platform with a parapet on three sides, and reached by steps which mount to the back from either side. It is on this that the Deputies stand when making speeches from the Tribune, leaning on the parapet or pacing up and down. The speaker is on the same level as the Secretaries, so that the President looks over his head towards the benches. Round the foot of the orator's platform stand the shorthand-writers for the Verbatim Report, and on either side of it are seats for the officials who compose the Analytical Report.

The benches rise opposite in ten tiers. They are divided and approached by nine stairways (which form radii of the semi-circle); six shorter stairways also divide the five upper tiers. Each tier consists of a long bench covered with red material, the back of which forms a desk for the occupants of the row behind. It is divided and numbered off into separate places, every Deputy having his own seat and desk. These are distributed, at the beginning of each Parliament, by the President in consultation with the presidents of the political groups. Parties are placed in blocks from left to right, according to their politics, and within each block individual seats are allotted as the party concerned wishes. Independent members can arrange to have their places inserted at exactly the place which will accurately represent their political position. "Left" and "right" mean left and right of the President, so that the "extreme left" is at the right hand end of the benches. This nomenclature, now known throughout the world, was first used in France, in the assemblies of the revolutionary period. The central portions of the two lowest benches are reserved for the Government; each of them is marked "Ministers' Bench" (*Banc des Ministres*) in gold lettering. To the left of these are the two similarly marked Committee Benches (*Bancs des Commissions*), where the Presidents and Reporters of committees sit.

Behind the benches rise the lower and upper spectators' galleries (*les tribunes*), divided into a series of compartments, like boxes in a theatre, by twenty Ionic columns of marble. Some of these compartments are reserved for special classes of visitors, such as the Diplomatic Corps; others are available to members of the public.¹ The press occupies most of the left

¹ See above, p. 109.

half of the upper gallery. Beyond each end of the lower gallery is a compartment used by civil servants concerned with the business before the Assembly, other than those of the Government Commissioners for whom there is room on the Ministers' Benches. The galleries are entered by stairways which mount behind them, outside the chamber.

Chapter Six

THE RULES OF DEBATE

I THE PROCESS OF DEBATE

i. The French Conception of Debate

AN ENGLISH visitor listening for the first time to a French parliamentary discussion, and hearing from time to time the words *motion* and *question*, may easily assume that the same process is being followed as in a House of Commons debate. But when he asks himself what is the Question before the Chamber, he will begin to doubt. For the answer will be that, in the technical sense, there is no Question before the Chamber at all. The French conception of debate is very different from the British. It does not recognise the technical process which, in House of Commons' procedure, is gone through in every debate. The absence of basic rules of debate is as surprising to an Englishman as their purpose is difficult to explain to a Frenchman.

In House of Commons procedure all debates are eventually reducible to one form. "When a motion has been moved (and seconded) the Speaker *proposes* the Question (in the same terms as the motion), as the subject of debate, and at the conclusion of the debate *puts* the Question for the purpose of eliciting the immediate decision of the House. Motion, Question, Decision are all parts of a process which may be called the elementary form of debate."¹ This procedure was developed during the seventeenth century, in the course of the struggle between the House of Commons and the King. Under earlier procedure, the Speaker, at the end of a debate, "collected the sense" of the House and expressed it in a Question, upon which the House voted. This practice was open to abuse by the Speaker, who was then the King's representative; and it was partly through the desire to prevent such abuse that the present procedure was devised.

The historical requirements of French procedure have been

¹ Campion op. cit., p. 168. This analysis of the process of debate is recognized throughout the English speaking world. Cf. Cushing's *Manual of Parliamentary Practice* (The John C. Winston Company, Philadelphia and Toronto, 1947), paragraph 233.

different When the first Constituent Assembly drew up its Standing Orders in 1789, it was able to provide by other means against similar abuse on the part of its Presidents, who were in any case to be elected without need for royal approval. The office was to be held for only a fortnight at a time, and its authority and influence were slight. The chief danger, in the conduct of debates, was the unbounded eloquence of the Assembly's own members, and the confusion that often resulted. A suggestion that a debate should be tied from the start to a rigid form of words would have been repugnant to the spirit of the time What was absolutely necessary was to devise a method by which, at the end of a long debate on a given subject, the form of words upon which the Assembly was to express itself could be decided It was therefore laid down in the Standing Orders that "When the debate has come to an end, the mover, in conjunction with the Secretaries, shall reduce his motion into the form of a question, upon which a decision 'yes' or 'no' can be expressed", and further that "Every Member shall have the right to speak for the purpose of saying that the question appears to him to be badly put and to explain how he thinks it should be put".¹

The conception of debate behind these provisions is that of a discussion based not on a form of words but on a subject, and continuing until all points of view have been explained and it is possible to draw up a formula upon which all the participants can express themselves either as supporters or opponents. In this elementary form it is still seen in certain types of French procedure The debate on an Interpellation (*interpellation*), for example, is initiated by the speech of a Deputy who addresses the Government on a given topic, and so sets the subject of debate; it runs the greater part of its course (often several days) before a motion, or a series of motions, is put forward for decision by the Chamber. A reasoned motion for the adjournment of debate, again, may contain an expression of views several paragraphs long, but without any mention of adjourning the debate; the considerations put forward in the motion will form the basis of a discussion, which will finally be summed up in the process of voting "yes" or "no" to the proposal of adjournment

In legislative procedure this process is more formalised since normally the Assembly is from the start in possession of texts, which guide the course of debate and indicate the form of its conclusions The principle remains the same. The General

¹ Standing Orders of the 29th July, 1789, Chapter IV, arts 15 and 17

Discussion of a bill does not begin with the making of a motion and the proposal of a question that certain action be taken (e.g., "that the bill be now read a second time") It is initiated by the speech of the Reporter of the committee to which the bill was referred His speech is devoted to the committee's written report and to the text of the bill included in it, and so sets the subject for the debate which follows No question, however, is proposed, until all who wish have spoken, when the Assembly is asked to decide whether or not it will pass on to discuss the bill clause by clause—a question which arises naturally from the preceding debate Similarly, in the discussion of a clause or an amendment, and in the debate preceding the Vote on the Whole Bill, although the subject is set by a text, it is not until the end of the debate that a question is put before the Assembly.

It should be noted also that under this conception of debate it is not necessary for the discussion of a subject to end in the taking of a decision The nature of parliamentary work is such that the majority of debates will so end But there is nothing irregular about a debate in which, for example, an announcement by a minister is followed by two or three speeches, after which the Assembly simply passes on to the next business.¹

It follows from this conception of debate that the words *motion* and *question*, though used in French procedure, cannot have the same significance as have the English words in that of the House of Commons. The word *motion* has no closely defined or technical sense It is applied, somewhat loosely, to various kinds of proposals put before the Chamber, whether or not such a proposal contains the question upon which a decision will finally be expressed. The phrase *motion préjudiciale où incidente* (Preliminary or Incidental Motion), for example, covers various kinds of what would in British procedure be called dilatory motions. The Constitution has also given rise to the terms *motion d'investiture* (Motion of Investiture) and *motion de censure* (Motion of Censure). Colloquially, also, the word *motion* is sometimes used as equivalent to *proposition de résolution* (Proposal for a Resolution), just as in English it is commonly used as an abbreviation of "motion for resolution". In the phrase *motion d'ordre*, however, the word has little more significance than the English term "a point of order" (with special reference to the order of business).²

The French theory of debate also leaves no place for the

¹ Compare also the procedure of the Oral Question with Debate, as originally used in the Council of the Republic (see Chap. XII).

² See page 150

British conception of the “subsidiary motion”, that is, of a motion without independent existence, but depending on a question already before the House, which the motion seeks to supersede or to amend. Every dilatory motion is in French procedure the subject of a separate self-contained debate. This may, of its nature, precede or interrupt another debate, but is not technically dependent upon a question proposed in that debate. Similarly, the discussion of an amendment whether to a bill or to a Proposal for a Resolution, constitutes an independent debate on a separate text.

The word *question* is more confusing, since, in the phrase *poser la question* (to put the question), it may have either a general sense or a technical significance similar to, but not precisely the same as, that of the English word. In the general sense, *poser la question* means simply to put a subject or matter before the Assembly, *poser la question de confiance* is the traditional phrase meaning “to make (sc., some proceeding before the Chamber) a matter of Confidence”. In their technical sense the phrases *poser la question* (to put the question) and *la position de la question* (the putting of the question) are applied to the action of the President in announcing, at the conclusion of a debate, the proposal or the text upon which the Assembly is to decide. This “putting of the question”, however, does not consist in reading out to the Chamber a form of words to be voted upon—nor is the word *question* usually spoken by the President. It is simply a general indication of the subject requiring decision. The question is usually put in one of two traditional phrases. When the Assembly is to be asked to decide upon a course of action, the President says, “I shall consult the Assembly on”—for example, “I shall consult the Assembly on passing to the Discussion of the Clauses” (“*Je consulte l'Assemblée sur le passage à la discussion des articles*”). When a text is to be decided upon, the phrase is “I shall put to the vote”—for example, “I shall put Mr X's amendment to the vote” (“*Je mets aux voix l'amendement de M X*”).¹

The process of French parliamentary debate is thus remarkably free from technical rules. No formal introduction is needed to begin it. It consists simply of free discussion of a subject, not of any precisely expressed proposal. It usually, but not necessarily, ends with the giving of a decision for or against a formula which will have arisen out of the debate itself, though it will often take a well-known procedural form. It can, however, be

¹ A text must be divided, and voted upon in separate portions, if any Deputy so requests. The President may himself suggest this course (S O 51).

ended simply by the Assembly's passing on to another subject. No further analysis of the process is recognised. It is only the facts that House of Commons procedure does recognise and expect such an analysis, and that some of its technical terms are used with different significance in French, that has made it necessary to explain what is really a simple conception.¹

2 *Methods of Delaying Debate*

A debate does not always run its course without interruption. It can be delayed, postponed or even prevented altogether, by various forms of dilatory procedure, known generally as Preliminary or Incidental Motions (*motions préjudiciales² ou incidentes*)—that is, motions which of their nature, are either moved and discussed before the opening of another debate, or incidentally in the course of it. Such motions can be moved at any time during a debate, and must be decided before a decision is given upon the main matter or subject (*la question principale*) of that debate, and before any amendments connected with it.³ They thus hold up proceedings in the main debate.

The delaying effect of such motions does not depend entirely on their being carried, since the mere expense of time in their discussion causes delay. They can, thus, be used purely for obstruction. The degree to which each separate motion can be so used is limited by the rule that, on a Preliminary or Incidental Motion, only the mover, one opponent, a representative of the Government, and the President or the Reporter of the committee concerned may speak.

The following are the most usual forms of Preliminary or Incidental Motion.

(i) The Previous Question (*la question préalable*)

In the early assemblies it was the recognised procedure that before any Motion could be discussed, the Chamber should

¹ The analysis given above of the French conception of debate is the author's own. Indeed, the notion of analysing the process of debate is peculiar to English procedure, and to those procedures in the Commonwealth and in the English speaking world which are derived from or modelled on it. No analysis of French debating procedure is to be found either in Pierre's treatise or in the present Standing Orders, though, as mentioned, those of 1789 suggest such an analysis as has been given.

² The word *préjudiciel* does not have the sense of "harmful" associated with the English word "prejudicial", but is applied in a strictly or loosely legal sense only to a question the settlement of which is a necessary preliminary to some other more important proceeding. This sense is derived from Roman Law.

³ S.O.46.

decide whether or not there was any occasion to debate it. This procedure was laid down as a rule in the Standing Orders of 1789. It can still be seen in the form of the discussion of the date for the hearing of an Interpellation (*interpellation*). It has dropped out of general use in legislative procedure (except in the case of Counter-Bills), since it can usually be assumed that if a committee do not present a hostile report, a bill is worth some consideration. It can, however, be revived, for the purpose of preventing, delaying or prolonging discussion, in the technical form known as the previous question (*la question préalable*). This is quite often moved as a preliminary to the discussion of bills or of Proposals of Resolutions, it has also on a few occasions been used in connection with other proceedings.

To propose the previous question is equivalent to moving that there is no occasion to debate the matter concerned ("*qu'il n'y a pas lieu à délibérer*"). It can be moved either at the beginning of the General Discussion of a bill (or of a Proposal for a Resolution) or at the end of it and before the vote on Passing to the Discussion of the Clauses. If it is carried, the bill is considered to have been rejected. This, however, is a rare occurrence. The real purpose of a Deputy who moves the previous question is usually to give special emphasis to his opposition to the whole nature of a bill, on occasion the object is simply to delay proceedings. The use of the procedure is by no means infrequent.

Reasoned motions are sometimes used for a purpose similar to that of the Previous Question. Their terms usually draw the attention of the Government to some recent event or suggest some action to it. The implication is that the matter of the motion is more important than that of the main debate, and should be considered first. Such motions are known simply as Preliminary Motions.¹

(ii) The Adjournment of the Debate (*motion d'adjournement*)

It is also possible to move to adjourn a debate of any kind, either *sine die* (a rare occurrence) or until after some particular event. On 30th July, 1947, at the beginning of the consideration of a bill concerning the organisation of certain subordinate assemblies in French Africa, a motion was made that discussion of the bill be adjourned until the Assembly of the French

¹ One such Preliminary Motion was presented on 16th June, 1948, during the discussion of Interpellations. The Assembly decided that it was inadmissible (*irrecevable*). The grounds for this decision clearly were that the motion was entirely irrelevant to the Interpellation (see p 156).

Union and Territorial Assemblies concerned had had an opportunity to give their opinion, in conformity with article 74 of the Constitution. As these Territorial Assemblies had not yet been set up, the motion, had it been carried, would have held up the bill for some time, or caused its complete abandonment. On 10th August, 1947, a motion was made to adjourn the debate on the bill providing for an Organic Statute for Algeria until after a certain party meeting, which was about to be held. In this case the effect of carrying the motion would have been simply a short postponement. A debate may also be put off for a short time by means of a motion for postponement (*renvoi*) until a given hour.

(iii) Suspension of the Sitting (*suspension de séance*)

A suspension of the sitting, by agreement, is a normal and frequent procedure. Occasionally, however, it is proposed simply for the purpose of delay. It is by its nature limited in extent either by the naming of a time for the resumption, or by a reference to some immediate event the conclusion of which is to be awaited. During the sitting of 29th November, 1947, for example, a purely dilatory proposal was made for the suspension of the sitting until the end of a party meeting.

(iv) The Reference Back (*le renvoi*), Reservation (*la réserve*) and Separation (*la disjonction*) of parts of Bills or of Amendments

These three forms of procedure, which are described in Chapter VIII, are part of the normal procedure on bills. The effect of agreeing to such motions, however, is to delay consideration of part of a bill, or of an amendment, and they are, therefore, sometimes used for this purpose. A motion to refer a bill to the Economic Council¹ or to the Assembly of the French Union could also be so used.

Besides these well-recognised forms of Preliminary or Incidental Motions, other proceedings have sometimes been made use of for dilatory purposes. As described below (p. 144), demands for the holding of Votes by Open Ballot at the Tribune were so used in the Session of 1947. In consequence the relevant Standing Order was modified, with the intention of making it more difficult to use that procedure for the purpose of obstruction.

¹ Such a dilatory motion was in fact made during the sitting of 20th November, 1947

If several Preliminary Motions are put down at the same time, the order in which they are discussed depends upon the amount of delay which each involves. A motion involving a long delay is taken before one involving a short delay, since, if the first be adopted, the second will be unnecessary. Thus on 10th August, 1949, the debate on the bill providing for an Organic Statute for Algeria opened with a motion for the previous question, which would have ended proceedings on the bill completely. This was followed by a motion to adjourn the debate until after a certain event, and that in turn by a motion for reference of the bill to an Advisory Committee, which would have meant only a very short delay.

3. *Methods of Curtailing Debate*

A debate ends naturally when no more Deputies wish to speak, and the President, seeing this, proceeds to invite the Assembly to give its decision, or, if no decision is required, announces the next business. This natural ending is known as the "closing" of a discussion (*la clôture d'une discussion*). In certain types of debate the number of Deputies who may speak is limited by Standing Order. The Assembly can, however, resort to certain special methods of ending or curtailing a debate.

• (i) *The Closure (la clôture)*

Besides the general meaning just described, the term *la clôture* has also a technical sense, that of the immediate ending of a debate, by order of the Assembly, whether or not all who wish have spoken. In this sense, it is the equivalent of the English term "the closure" which was taken over from the French term when the Closure procedure was adopted in the House of Commons in the 1880's. But the significance of the procedure known as the closure or *la clôture* has come to be very different in the two countries, mainly because of the difference in their party systems and in the position of their respective Governments. In England, the leaders of a firm majority can use it to curtail debate to what they consider a reasonable length, subject to the Speaker's power to refuse to put the question. It is regularly used by the Government as a means of getting its business through with the greatest dispatch consistent with the rights of the minority and of their own individual supporters. In France it is never used by the Government in that way—indeed, it is difficult to imagine that it could be so used, in the normal circumstances of French politics. An order for the

closure of a debate is simply the expression by the majority of Deputies of a feeling that enough has been said, and that it is time to make a decision. Such use of the closure is fairly frequent.

The closure¹ cannot be asked for before at least two speakers, on opposite sides, have spoken in the debate. Requests for it are made orally by Deputies in their places, and acknowledged by the President in the words "I hear a request for the closure" ("J'entends demander la clôture"). They cannot be made during a speech. No discussion of the request is allowed, except in a General Discussion, when one Deputy only may speak against it, for not longer than five minutes. This right belongs in the first place to the first of any of the enrolled speakers who have not yet spoken, and who may wish to exercise it; if not claimed on such grounds, it goes to the first Deputy who asks for it. The President then puts the question on the closure to a Vote by Raising of Hands. If the result is doubtful, the Assembly votes again by Sitting and Standing. If the result is still doubtful, the closure is not carried, and the original debate continues. A vote on the closure is never held by Open Ballot, since it is essentially a question to be decided by those in the Chamber at the moment. When the closure of a General Discussion has been carried, Explanations of Vote lasting not more than five minutes may still be made, but the closure can be again moved on the Explanations of Vote.²

(ii) Organisation of a Discussion (*l'organisation d'une discussion*)

When an important debate, in which a large number of Deputies wish to speak, has been arranged, a proposal may be made to organise its progress. Such a proposal must be voted upon by the Assembly without debate. If it is agreed to, the order of speaking and the number of sittings to be allotted, are fixed by the Conference of Presidents. Intending speakers who do not belong to a party represented at the Conference may attend it on such an occasion, and the agreement of all intending speakers must be obtained. Once the discussion has begun, no more Deputies may put their names down to speak, except at the time for Explanations of Vote at the end.³ The closure cannot be moved to such a discussion.⁴ In the former Chamber of Deputies, and in the Constituent Assemblies, the Conference

¹ S.O. 45, Pierre, § 920

² See V.R. 29th November, 1947, p. 5296

³ S.O. 39

⁴ S.O. 45

might also fix time-tables for the speeches, but this provision was omitted from the present Standing Orders. Voluntary arrangements for the organisation of discussions are also sometimes made between the parties. The English "guillotine" procedure, by which a rigid allocation of time is made to different stages of a bill, is not known in France.

•(iii) Curtailment of Discussion of Amendments

The President has no power to select some amendments for discussion, and pass over others (see below, Chapter VIII). Occasionally, however, the Government have resorted to the procedure of proposing the rejection of all amendments to a bill *en bloc*. Such a proposal was made and agreed to by the Assembly, as a counter to obstruction, during the sitting of 29th November, 1947, already referred to.¹

II. VOTES (*Votes*)²

1. General Rules

The majority of debates must, of their nature, require at their end the taking of a decision by the Assembly. The President then "consults the Assembly" on the question which has arisen from the debate, as already described. The procedure by which the decision will be given is clearly of the greatest importance for the orderliness of proceedings.

If the Assembly, when called upon to decide a question, clearly expresses its views in one sense only, the President at once announces the result—that is, that the Assembly has, or has not, adopted the proposal submitted to it. If there is any doubt a vote (*vote*) is held.

No vote can be validly held unless the majority of the Deputies are within the precincts of the Assembly at the time.³ Normally it is taken for granted that this is so. But before the opening of a Vote by Ballot, the Bureau may be asked to ascertain (as it must always do, if the Ballot is to be held at the Tribune), whether in fact the majority is present. If it finds that it is not, the Ballot stands over to the beginning of the next sitting, which must not be held sooner than one hour afterwards.

¹ V.R. 29th November, 1947, item 17

² S.O. 74-85, G.I. XIII-XVI

³ Except on a question arising when, at the end of a sitting, the Assembly is fixing the Orders of the Day for the next—a moment when it might often be hard to find a quorum

Once a vote has been held, the adoption of the proposal under consideration is secured if it is supported by the majority of those voting, except in those cases in which the Standing Orders specifically require an absolute majority of all Deputies.¹ Voting is not compulsory. If the votes on each side are equal, the President must declare that the proposal voted upon is not adopted. He himself has no casting vote (nor does he normally exercise his right to vote as an ordinary Deputy). A Vice-President, when in the Chair, is bound by the same rules, though when not in the Chair he is free to vote as an ordinary Deputy. With this exception, all Deputies are free to vote on all questions. There is a tradition that members of the Government should not vote on certain matters which are considered to be purely the concern of the Assembly itself, such as amendments to the Standing Orders, or questions concerning the Parliamentary Immunity of Deputies. This tradition, however, is not supported by any rule, and is not invariably observed.² No Deputy may speak while voting is in progress or between the holding of different types of vote on the same question.

2. *The Three Types of Vote*

A vote can be held in three ways—by Raising of Hands (*mains levées*), by Sitting and Standing (*assis et levés*), and by Open Ballot (*scrutin public*). The first two forms are summary and speedy methods of deciding questions, when the majority is at once clear and when the minority do not think the matter sufficiently important for them to express their opposition more formally. The President must always (with the exceptions given below) begin by taking the opinion of the Assembly by Raising of Hands. He calls first upon those in favour of the adoption of the proposal or text to raise one hand, then on those against. The votes are counted by the Secretaries and if they agree the result is at once announced, and the vote is finished. If they disagree, the President proceeds to the second method, calling successively upon those in favour and those against to rise in their places. The Secretaries again count, and if they still disagree, a Vote by Open Ballot must be held. If, after a doubtful Vote by Raising of Hands, a single Deputy asks for an Open Ballot, the Assembly must proceed at once to that method of voting.

¹ In most cases in which an absolute majority is required, the Standing Orders are consequential upon similar requirements in the Constitution.

² See page 142.

3. Votes by Open Ballot.

A Vote by Open Ballot must be held at once (without recourse to the more summary methods) if asked for by the Government, the Main Committee, the president of a political group with not less than twenty-five members, or any twenty-five Deputies. It is also compulsory for any vote on a bill imposing or altering taxes (unless the proceedings are "without debate"). It is the normal form of vote to be used whenever there is any considerable desire to have the votes of individuals recorded. It may not, however, be used for a vote on the closure, and on certain questions of order—all matters which can only properly be decided by those actually in the Chamber. The making of a formal request for a Ballot or the announcement that one must be held, does not end the debate. Deputies are allowed, by custom, to make further short speeches to explain their votes (*explications de vote*).

In a Vote by Open Ballot the votes are expressed by means of differently coloured cards (*bulletins de vote*)—a white card for a vote "for" (*pour*), a blue card for a vote "against" (*contre*). Each Deputy keeps on his desk a number of such cards of both colours, each with his name printed on it. As soon as the President announces that "the Ballot is opened" ("le scrutin est ouvert"), messengers go round the benches with urns,¹ into which each Deputy places a white or a blue card. When all the Deputies who wish to vote have done so, the President announces that the Ballot is closed. Up to this moment, it is possible for a Deputy to cancel, or to reverse, a vote which he has already given by placing in the urn one or two cards, as the case may be, of the opposite colour to that with which he originally voted. The urns are next brought to the Bureau, where the cards are sorted and counted by the Secretaries. The result is announced by the President. The whole procedure, from the opening of the Ballot to the announcement of the result, takes about ten minutes.

If necessary, however, the President, in consultation with the Secretaries, may decide that Checking of the count (*pointage*) is desirable before the result is announced. In this case the Assembly usually proceeds to the next business, unless this is directly dependent upon the result of the vote, in which case

¹ The urns are about eighteen inches high, made of a light metal and painted blue. They consist of a hollow sphere divided into a bowl, with a stand, and a lid which fits on to the bowl and has a slit in its top surface. The cards are supposed to be inserted through the slit. But as the moulding round the slit makes a convenient handle, the messengers invariably prefer the simpler method of removing the lid with one hand and presenting the open bowl to Deputies with the other.

the sitting is suspended. A less hurried count of the cards is then made in a room near the Chamber, by officials of the Assembly supervised by the Secretaries.¹ This takes between thirty and forty minutes. The result is announced at the first convenient moment. If, after the first count, the difference between the two sides is not greater than twenty-five, or the number of votes cast appears to be greater than the number of Deputies who could have taken part, Checking is obligatory. It must also be carried out after any vote related to a Question of Confidence or a Motion of Censure, or if requested by twenty-five Deputies or by the president of a political group of not less than that number.

The peculiar feature of the Vote by Open Ballot, when held in the normal way just described, is that absent Deputies are allowed to vote by proxy (*par procuration*). One Deputy may be charged to act as proxy for a number of others, and to cast their votes for them when they are absent, or even when they are present. For this purpose he keeps some of their cards on his own desk in a small box and himself places them in the urn. A Deputy who undertakes this task is colloquially known as a "postman" (*un boîtier*). Such arrangements are naturally made on a party basis, and it is quite legitimate for the cards of a whole party, enclosed in an envelope, to be put in the urn by one Deputy. It is this practice, rather than a high standard of attendance, which accounts for the large number of votes usually recorded at a Vote by Open Ballot. If, however, a member of a party personally casts a vote in addition and in the opposite sense to one cast on his behalf by his party, his personal vote is alone valid.

Voting by proxy, unknown in British procedure, is a practice of long-standing in France. Pierre justifies it on the ground that a Deputy's right to vote in the Chamber does not belong to him personally, but as the representative of his constituents. His vote expresses their wish, not merely his own. Yet his work as their representative consists of much else besides attendance in the Chamber. Much of his time is occupied in committee, in official conferences and visits, and in journeys to his constituency itself. "It is difficult to justify the idea that a district or a Department can be denied the means of demonstrating its legislative will, or bearing its true weight in the scale of public

¹ The action of certain of the Secretaries on 5th July, 1949, in refusing to count the votes of members of the Government in a vote concerning a matter of Parliamentary Immunity, was declared by the Assembly, in a Resolution of 7th July, 1949, to be an abuse of their position.

affairs, because a chance event has for the moment removed its representative from the Chamber".¹ It is interesting to compare this argument with his criticism, a little later, of the British system of "paning". "France", he says, "finds it difficult to understand such a system. Our country of logic and good sense does not allow the settling of votes in advance. She would find it more easily understandable that Deputies of opposite parties should seek to convince each other, than that they should cancel each other out in order to absent themselves on their private affairs". This comment² might seem to have its bearing also on the system of voting by proxy.

4. *Votes by Open Ballot at the Tribune*

There is, however, a special form of Vote by Open Ballot in which only those present within the precincts can vote. This is known as a Vote by Open Ballot at the Tribune (*scrutin public à la tribune*). A Vote must be held in this way if fifty Deputies present a signed request for it, provided that they are present personally when their names are called.

The proceedings begin with the President's announcement that he has received a request for an open ballot at the Tribune. The Bureau must then at once ascertain whether the absolute majority of the Deputies are within the precincts. If they are not, the vote stands over till a later meeting. If the majority are then present, the names of the fifty Deputies who asked for the Ballot are read out by a messenger, each Deputy signifying his presence by rising in his place. If the fifty are not all present, their request is refused. If they are present, the Ballot is held in the following manner. A messenger reads out the name of each Deputy in alphabetical order, starting with the first name beginning with a letter previously chosen by the President by lot. Each Deputy, when his name is called, mounts the Tribune and gives his card to a Secretary, who places it in an urn, and marks the Deputy off on a list of the names. When all the names have been read through, those of Deputies who have not yet answered are read over again. Checking of the count is obligatory and the sitting is normally suspended until it is finished, when the result is proclaimed. The Ballot must be kept open for an hour, during which a Deputy may cast his vote even if he was absent during the reading of the names.

The object of the Vote by Open Ballot at the Tribune, when

¹ Pierre, § 1020

² Pierre, § 1023

properly used, is to add significance to a decision of the Assembly. Every Deputy who votes does so personally, and after an opportunity to consider the issue. At the same time proceedings are not confined to the possibly small numbers who happen to be present at the time when the President first consults the Assembly. The Vote cannot be held by this method unless the majority of the Assembly is within the precincts at the start, while the keeping open of the Ballot for an hour gives a chance not only to those so present but also to those who may be elsewhere to reach the Chamber in time to vote. It is also open for the President of a political group of twenty-five members or more, as for any twenty-five Deputies, to present a request for postponement (*renvoi*) of the ballot. This must, if necessary, be voted upon by ordinary Open Ballot. If granted, it results in still longer time being allowed to absent Deputies to travel to the Assembly and vote.

The drawback to this form of Vote is its lengthiness. The total time taken in the preliminary stages, the holding of the Ballot and the Checking, usually amounts to about an hour and three quarters. Thus any party which can muster the necessary fifty Deputies has, in the power to demand an Open Ballot at the Tribune, a formidable weapon of obstruction. During the sitting of 29th November, 1947, already referred to, one party did make it clear that they intended to use this power obstructively. A Proposal for a Resolution amending the Standing Orders, so as to limit this power, was therefore hastily drawn up and presented by certain Deputies, referred to the Committee on the Franchise, the Standing Orders and Petitions, reported and discussed. After a somewhat confused debate it was passed, with amendments which do not leave its meaning very clear. The main purpose was to prevent any single party from requesting an Open Ballot at the Tribune more than once during the same debate. This it appears to have achieved. Whereas, before its passing, seven Open Ballots at the Tribune took up some ten hours of twenty-three, only two were held during the remaining three days of the sitting.¹

5. *Announcement and Publication of the Result*

The President announces the result of a vote in the formula "The National Assembly has (or has not) adopted" (sc., the proposal) ("L'Assemblée nationale a adopté" or "l'Assemblée

¹ The Amendment consisted of additions to S.O. 83, the broad effect of which is that no body of 150 Deputies of the same party may present more than one request for Open Ballot at the Tribune during the same Debate.

nationale n'a pas adopté"). If, on an occasion of some solemnity, the whole Assembly appears to be in agreement he may proclaim that it has voted unanimously (*à l'unanimité*)

The names of those voting "for" and "against", in a Vote by Open Ballot (unless held in Secret Committee) are published in the Official Journal, as an annex to the report of the sitting. The names of all Deputies who did not vote are also published, under various headings. The majority of names are usually listed under the heading "Did not take part in the Vote" ("*n'ont pas pris part au vote*"), which includes all those for whose abstention no special reason is known. Deputies who have obtained official leave of absence are entered under "Excused or absent by leave" ("*excusés absent ou par congé*") Those who have been present, but purposely abstained, are entered under "Abstained voluntarily" ("*se sont abstenus volontairement*") only if they have so informed the Secretariat. Other headings may be used for special cases, such as that of a Deputy temporarily excluded from the Palace, or imprisoned. At the end the name of the Deputy who presided at the sitting is always given under a special separate heading of "Did not take part in the Vote".

6 Finality of the Result Proclaimed, Correction of Individual Votes

The result of a Vote is announced with the authority of the whole Bureau, and once announced, it is final. The only ground on which it might possibly be challenged would be that a grave irregularity had occurred in the conduct of the Vote. In that case the Assembly might be asked to decide whether the Vote was valid. Such a challenge would have to be made before the end of the sitting.¹ On a recent occasion the President refused to announce the result of a vote as reported to him by the Secretaries, on the ground that he considered it falsified ("*trugue*"). He called a meeting of the Bureau for the following day to consider the matter. His opinion was upheld, and the result of the vote was announced at the next sitting, with revised figures and, in consequence, the opposite result.²

Deputies are permitted, however, after a Vote by ordinary Open Ballot, to correct (*rectifier*) their votes within eight days, by giving written notification to the Bureau. Such corrections may not be made in the interval between the announcement that Checking of the count is to take place and the proclamation of the result, nor at any time in the case of Votes by Open Ballot

¹ See Pierie, § 1036, and proceedings in the National Assembly on the election of certain Councillors of the Republic, 4th and 6th February, 1947.

² See also footnote on p 142.

at the Tribune or of elections held in the rooms adjoining the chamber. This right of correction simply provides a means by which individual Deputies can clarify or alter their personal actions. No amount of corrections can alter the result of a vote, once it has been proclaimed.

7. *Voting at Nominations within the Assembly*

From time to time the National Assembly is called upon to appoint some of its members as holders of certain positions either within itself (its own officers, for example) or outside (such as its representative on other bodies, or certain members of the Council of the Republic and of the Assembly of the French Union). In the case of the Bureau, apart from the President himself, a peculiar form of election is used, described in Chapter V. In all other nominations, whether they fall to be held in the chamber itself, or in committees or *bureaux*, Secret Ballot (*scrutin secret*) must be used. Those in which the whole Assembly takes part may be held at the Tribune, as that of the President himself must be. The only difference between this form of Secret Ballot and an Open Ballot at the Tribune is that the individual votes are not published.

To save the time of the Assembly, however, another procedure, that of a Ballot in the rooms adjoining the chamber (*scrutin dans les salles voisines de la salle des séances*), is allowed and is generally used. An urn is placed in one of the rooms, and Deputies cast their votes there, while the sitting continues. The voting is controlled by one of the Secretaries and by two scrutineers (*scrutateurs*). The names of Deputies are marked off on a list as they vote and, as a separate check on the number voting, one small wooden ball is put into a special urn for each Deputy who votes. The time of the opening and closing of the Ballot is decided by the Assembly and announced by the President. Counting is carried out by the Secretaries.

In all nominations made by the whole Assembly, the result of the Ballot, at the first or the second holding, are not valid unless a candidate has received an absolute majority of the votes cast. At the third holding a single majority is enough. In two exceptional cases, those of nominations of members of the Higher Council of the Magistracy and of certain members of the High Court of Justice, a two-thirds majority is constitutionally required. Certain nominations, notably those of the *bureaux* (see Chapter VII) and of supervisors at Ballots, are made by the drawing of lots, performed by the President during a sitting.

III. THE CONDUCT OF DEBATE AND THE MAINTENANCE OF ORDER

"The President opens the sitting, controls the debates, sees that the Standing Orders are observed and maintains order."¹ In these general terms, Standing Order 41 makes the whole conduct of debate, and the duty of seeing that order is maintained in the chamber, the responsibility of the President. The rules which the President has to administer in the course of performing this task fall into three groups, dealing respectively with the conditions under which the right to speak is granted to individual Deputies, with what they may say, and with the orderly behaviour of Deputies in general. All powers with which these rules invest the President belong equally to each Vice-President whenever he is in occupation of the Chair.

1. Time, Order and Manner of Speaking¹

The right to speak (*la parole*) is accorded by the President alone. No Deputy may speak until he has asked the President's leave, and has obtained it. The formula in which the request is phrased (when made orally in the Chamber) is "I request the right to speak" ("Je demande la parole"). The President calls upon a Deputy to speak in the sentence "Mr. X has the right to speak" ("la parole est à M. X"). If a Deputy insists on speaking without having obtained the President's leave, or after the President has called another speaker, the President may direct that his words shall not be published

(1) The Right to Speak on the Main Subject of Debate

The greater part of debate in the Assembly arises upon an item of business, or a part of such an item, previously fixed by the Assembly and announced in due turn by the President—for example, the contents of a bill or part of its text, or the sphere of administration to which an Interpellation is directed. The matter which then forms the basis of a debate is often referred to as *le fond du débat*, that is, the main subject of the debate. Requests for the right to speak on the main subject may be made by Deputies throughout the course of a debate, whenever another Deputy comes to the end of a speech, and subject to the limitations on the number of speakers who may take part, which are prescribed by Standing Orders for certain particular types of debate. It is usual, however, for a Deputy who wishes to make a set speech on a particular occasion to inform the President of this beforehand; and this is always done before any debate

¹ See, in particular, S O 43 and 44

of the importance of, for example, the General Discussion of a bill or of an Interpellation. The President records the names of Deputies who make such requests and calls them before any others, according to the order in which they are recorded (*l'ordre d'inscription*), though, except in a debate organised by the Conference of Presidents, a Deputy may arrange with another to interchange positions in this order, or for a colleague to speak instead of him. Deputies who have not previously had their names recorded are equally entitled to speak (except in an organised debate). They can either give their names to the President, to be recorded, during the debate, or make an oral request at an appropriate moment.

Certain Deputies enjoy particular rights of speech, by virtue of their occupation of various positions. Members of the Government and the Presidents and Reporters of committees must be accorded the right to speak whenever they ask for it. They do not need to have their names recorded, though they will usually let the President know when they wish to intervene. The General Discussion of a bill is, naturally, always opened by the Reporter. A private Deputy who has presented a bill has no special right during the proceedings on it. But a Deputy who has presented an Interpellation has, by custom, the right to open the debate upon it himself. Such debates usually originate with several Interpellations, the authors of which speak first, one after another, after which other Deputies speak in the order in which their names are recorded. It should be noted that the power of ministers, and of Presidents and Reporters of committees, to speak at any time is balanced by the rule that after a Deputy holding such a position has spoken, one private Deputy also has a right to speak. This is also the case after a Government Commissioner has spoken.

Although no rule is laid down, it is the invariable custom that a Deputy is not called to speak more than once on the same question. The mover of an amendment has, however, a right of reply if a Minister or the representative of a committee has opposed it. Such a right is also, by custom, often allowed to a minister or Reporter who has opened a debate. On those occasions also, when short speeches in Explanation of Vote (*explications de vote*) are allowed, by Standing Order or by custom, a Deputy is not debarred from making such a speech by reason of his having intervened earlier in the debate. There is no general time-limit on speeches, though in certain particular cases a limit of five or ten minutes is laid down. Such limits are seldom strictly enforced.

Once a speaker has been accorded the right to speak, he may not be interrupted by another Deputy unless he gives his permission. If he does so, the President calls the interrupter in the words, "Mr Y has the right to speak, with the orator's leave" ("la parole est à M. Y, avec l'autorisation de l'orateur"). It is usual for a speaker to give way when asked, and to allow interruptions lasting sometimes for several minutes.

(ii) Speeches on Matters of Order, etc.

The rules so far described all apply to speeches devoted to the main subject of the debate. Inevitably, however, in any parliamentary discussion, those taking part wish from time to time to make remarks about the manner in which the debate is being conducted or about personal matters which arise in its course. In House of Commons procedure it is possible for a Member to raise any such matter on a "point of order", and if he does so, any other Member who may be speaking must give way. This is a form of proceeding applicable within wide but clearly defined limits. French procedure contains nothing exactly comparable. It is not usual to interrupt speeches to call attention to breaches of the rules of relevance, since these, as will presently be explained, are rudimentary and seldom enforced. If, however, a Deputy wishes to call attention to a substantial violation of the rules, or to make sure that they are carried out (for instance, to ask the opinion of the appropriate committee on a text, when the committee has not given it spontaneously), he may request the right to speak, to make a Recall to the Standing Orders (*pour un rappel au règlement*). Such a request can only be made at the end of another Deputy's speech,¹ the most usual moments being between the stages of a debate, or just before the taking of a decision, or at the beginnings and ends of sittings. A Deputy who asks to speak to make a Recall to the Standing Orders must be accorded the right to speak at once, consideration of the main subject of the debate being suspended until the point raised is settled.

A second procedure of this kind is open to a Deputy who wishes to explain some action by him which has been or may be called in question, that of asking to speak on a Personal Incident (*sur un fait personnel*). Such a request carries with it the right to speak, but not until the end of the sitting.

In the case both of a Recall to the Standing Orders and a speech on a Personal Incident, the Standing Orders allow the

¹ S O 51.

Deputy who raised the point to speak for five minutes only. There is no provision for other Deputies to reply, but in practice small debates often develop on such points. Proceedings arising on a Personal Incident are usually ended by the President in the words “the incident is closed” (“*l'incident est clos*”).

When questions concerned with the Orders of the Day, or with the order in which proceedings ought to be taken, are raised, they must also be settled before the main debate can begin or continue. Such a question is often referred to as *une motion d'ordre*. As described on p 115 a proposal actually to alter the Orders of the Day as agreed to can only be made at the end of a sitting.

(iii) The Manner of Delivering Speeches

Set speeches are invariably made from the Tribune. This has been the custom in French assemblies since 1790, except for a period of fifteen years (1852-67) under the Second Empire. A speaker who intends to speak at any length usually goes to the Tribune as soon as he is called. But it is also in order for a Deputy to speak standing in his place. Shorter speeches, and interruptions, even of some length, are often so made. The President may invite a Deputy who begins to speak in his place, and seems likely to be about to make a long speech (whether on the main subject or on an incidental matter) to go to the Tribune. Short explanatory speeches—for instance, on the details of a clause—are also sometimes made by a committee representative or a minister standing on the floor of the chamber below the Tribune. Casual interjections and remarks are naturally made by Deputies from their places, often without standing up. Speeches are addressed to the Assembly as a whole, though they may be framed in the form of a question to the President, a minister or a committee representative.

The reading of written speeches is allowed. But only the words which a speaker actually says are reported.

2. *The Contents of Speeches*

In relation to the contents of speeches, the basic principle without which no debate in any assembly could be held in an orderly manner is that what a speaker says should be relevant—that is, it should relate to the question which the assembly has chosen to discuss. In the procedure of the National Assembly the rules of relevancy are simple. “The speaker must not wander

from the subject" ("*ne doit pas s'écartier de la question*"), lays down Standing Order No. 43. If a speaker does so, the President must recall him to the subject (*le rappeler à la question*). If he persists in irrelevance after being twice recalled to the subject, the President may propose to the Assembly that he be forbidden to speak on the same subject for the rest of the sitting. The Assembly must decide on this at once in a Vote by Raising of Hands, and if there is any doubt of the result of the vote, the speaker is allowed to continue. Thus the President, though it is his duty to keep the debate to the subject under discussion and to caution irrelevant speakers, has himself no power to take action against a Deputy who refuses to obey his recalls to the subject. The simplest sanction with which his authority is backed lies out of his hands, in those of the Assembly, and is by no means certain to be effective. It is therefore not surprising that in practice the President tends to limit himself to warnings, and only very rarely goes so far as to ask the Assembly to decide whether or not a speaker shall be allowed to continue. This naturally results in frequent instances of continuous irrelevancy—a great weakness in French procedure, of which more will be said in Part IV of this chapter.

There is also little restraint upon the subjects which may be raised in speeches. The President of the Republic, being responsible for actions solely in a matter of High Treason, can only be attacked through the extreme procedure of a motion to commit him for trial on that charge,¹ and it is normally the custom not to refer to him in debate. Certain higher judicial officers are also exempt from criticism. Motions reflecting on a matter that is *sub judice* in a court of law, or on the internal affairs of a friendly foreign power,² are also out of order. Any kind of personal attack against another Deputy is forbidden.³ There is no restriction on quotations from documents or from other speeches, made in the Assembly or elsewhere.

3 *The Maintenance of Order in the Chamber*

(i) Customary Behaviour of Deputies listening to Debates

Deputies attending in their places while another is speaking, may, and often do, write letters and read papers. Applause is shown by interjections, such as "good" ("*très bien*") and by clapping; those who wish to show particularly enthusiastic

¹ Const., art. 42. See also p. 56.

² Pierre, § 450.

³ S O 52.

approval stand up and clap at the same time. Speakers who cannot easily be heard are sometimes encouraged with cries of "louder" ("plus haut") Disapproval is supposed to be confined to short exclamations, but is very often extended to longer interruptions. The loudest ways in which Deputies show violent disagreement or impatience are by banging on their desk with their hands, or rattling the desk-lids up and down. The use of all these forms of manifestation is subject to the general prohibition that any demonstration or interruption which gives rise to disorder is forbidden¹

(ii) The Disciplinary Powers of the President and the Assembly

The President has a general power to maintain order by suspending the sitting in the case of disorder arising from personal attacks, demonstrations or interruptions. This is usually a conclusive method of dealing with disorder caused by a number of Deputies, and is generally resorted to by the President in such circumstances. If disorder breaks out again on the resumption of proceedings after a suspension, the President can bring the sitting to an end altogether.²

Against individual disorderly Deputies he can resort to four forms of disciplinary sanction (*peine disciplinaire*).³ These are of long standing in French procedure, and the rules concerning them have not been greatly altered since the first years of the Third Republic. The four forms are:

- (a) The Call to Order (*le rappel à l'ordre*).
- (b) The Call to Order recorded on the Minutes (*le rappel à l'ordre avec inscription au procès-verbal*).
- (c) Censure (*la censure*).
- (d) Censure with temporary exclusion (*la censure avec exclusion temporaire*)

(a) and (b). *Calls to Order.* The Call to Order is not in itself a punishment, but is a rebuke which constitutes a stage on the way to punishment. The President, and he alone, can call to order any Deputy who is disorderly in any way. A Deputy who is called to order while not himself speaking, may only speak in his own justification at the end of the sitting, unless the President decides otherwise. When a Deputy is called to order for the second time in the same sitting, the fact is recorded, and the rebuke becomes a "Call to Order recorded on the Minutes".

¹ S.O. 52

² S.O. 52

³ S.O. 104-109.

(c) *Censure* The President cannot himself pronounce Censure upon a Deputy. He proposes the infliction of the punishment to the Assembly, which decides in a Vote by Sitting and Standing, without debate. The Deputy concerned has a right to be heard in his own defence, or to arrange for a colleague to speak on his behalf. In both cases the proceedings, and the formal infliction of the punishment, are recorded in the Minutes.

Simple Censure (*censure simple*), as this degree of Censure is called, may be enforced if the Assembly so decides, upon a Deputy who, after having received a Call to Order recorded on the Minutes, still refuses to submit to the President's authority; who has caused grave disorder (*une scène tumultueuse*) in the chamber, or who has uttered insulting, provocative or threatening remarks against one or more of his colleagues. It entails the forfeiture of half the Deputy's salary for one month.

(d) *Censure with Temporary Exclusion.* Censure with temporary exclusion from the Palace of the Assembly may be pronounced upon a Deputy who has persisted in his offence in spite of receiving Simple Censure, or who has twice received this punishment, who has made a call to violence in the chamber; or who has been guilty of outrageous behaviour towards the Assembly or its President, or of insulting, provocative or threatening words towards the President of the Republic, the Prime Minister and other members of the Government, and the other Assemblies established by the Constitution. A Deputy who receives this punishment may not take part in the work of the Assembly nor appear within its precincts until after the fifteenth sitting day following its infliction. He is immediately asked by the President to leave the Assembly. If he refuses, the sitting is suspended, and the period of exclusion is extended to thirty sitting days (as it is also when imposed for the second time upon the same Deputy). If necessary, the police of the Assembly (described on p. 108) are called upon to remove him. Censure with temporary exclusion also involves forfeiture of half the Deputy's salary for two months.

Of these four forms of sanction, the Call to Order is merely a reproof, and in its milder form, without recording on the Minutes, is not infrequently administered. Simple Censure and Censure with Temporary Exclusion are, however, punishments with some weight behind them, and the infliction of them, especially of the second and severer form, is comparatively rare.¹

Mention may be conveniently made here of the rules laid

¹ Compare the figures given on p. 157

down by Standing Order No. 10 concerning the committal by a Deputy of a punishable act (*fait délictueux*) within the precincts, though these are not strictly speaking rules of debate. If a Deputy commits within the precincts of the Palace what appears to be a crime or misdemeanour punishable by law, the fact is at once reported to the President. If a sitting is in progress at the time, the President must suspend the debate, and inform the Assembly of what has happened. If the Assembly is not sitting, or the sitting has been suspended, he must make the announcement immediately the Assembly has next met. The Deputy concerned is then allowed to make an explanation, if he requests to do so, after which he must leave the chamber. He is kept within the Palace, and the matter is reported to the Public Prosecutor (*le Procureur-général*). If the Deputy offers any resistance within the Chamber, or grave disorder arises, the President must at once close the sitting.

IV. SUMMARY THE EFFECTIVENESS OF THE RULES OF DEBATE

The rules of debate have been described in three groups—those which lay down the technical process of debate, those which govern the manner in which the Assembly reaches decisions after debate, and those which regulate the speech and action of individual Deputies. Each group should make a distinct contribution to the task of ensuring effective and orderly proceedings in the chamber.

The technical rules are based on the simple conception of a debate as the discussion of a chosen subject, in the course of which a formula is drawn up to be decided upon by the Assembly. Long experience has kept these rules simple and practical. The various forms of dilatory procedure cannot be used to cause more than very moderate periods of delay, while the Closure provides a reasonable safeguard against unnecessarily long discussion. The rules governing the holding of votes enable the Assembly to reach the decisions rapidly (except in the case of Open Ballot at the Tribune, the frequent use of which is now difficult), and to express them clearly.

The orderly organisation of debate is thus secured. Whether the proceedings in debate from minute to minute will also be orderly depends upon the effectiveness of the third group of rules; and these in turn depend to a great extent upon the position of the Chair. It is the President who grants the right to speak, and who may punish a Deputy who speaks without his

leave, to the extent of ordering that his words shall not be recorded. It is the President who recalls an irrelevant speaker to the question—though he can himself do nothing to enforce his order, but must depend upon a vote by the Assembly. It is the President who administers Recalls to Order, and can suspend or close the sitting, though he cannot himself punish a disorderly Deputy.

In the first and the third of these duties the powers of the President prove in practice sufficient. His granting of the right to speak is rarely called in question. His power to suspend or close the sitting enables him to put an end to scenes of grave disorder, while it is clearly right that the considerable punishments involved by Censure should be inflicted not by him but by the Assembly itself. When disorderly scenes do occur in the Assembly they are often characterised by a violence and bitterness not usually seen in this country, and for this reason they receive more publicity than the orderly debates of which by far the greater part of the proceedings of the Assembly consists.

It is, however, in relation to the rules of relevancy that the weakness of the Chair is revealed. Since the President has himself no power to deal with a speaker who persists in wandering from the subject, his ability to prevent irrelevancy must depend largely on the amount of deference accorded by Deputies to his office. In the House of Commons respect for the Chair is so great that not only is it most unusual for an individual Member to defy a call to order, but the House is also accustomed to have the exact scope of a debate determined and laid down for it by the Speaker. The members of French legislative bodies have never conceived of such a surrender of their authority. Just as they have always been suspicious of powerful individuals in national politics, so they have been chary of granting too much power to an individual in their internal procedure.¹ Added to this reluctance to entrust any of the Assembly's authority to its President, there is the strong tradition of the importance of the rights of the individual Deputy. The result of these factors is that Deputies are frequently allowed to wander from the subject without being checked, and that when checked, they usually either argue with the Chair or ignore it altogether. The weakness of the Chair is increased by the practice of allowing Recalls to the Standing Orders to be used for carrying on arguments about the decisions of the President.

¹ In addition, the French conception of debate as based on a subject, rather than a formal question, would not make it easy to give an exact ruling as to the scope of a particular debate, were it ever desired to do so.

The taking of a decision by the Assembly on a matter of relevancy is, in fact, a rare event, and when such a decision is taken, the votes are likely to be cast more according to political views than to any feelings about the rules of order. Two examples from the Session of 1948 may serve as an illustration of this. On 4th March, during the discussions of Interpellations on the Government's foreign policy, a speaker insisted on discussing affairs in Algeria (thus implying that he considered that Algeria, which is part of metropolitan France, should be independent). After twice recalling him to the subject, the President asked the Assembly to decide whether he should not be forbidden to speak during the rest of the debate, and he was in fact forbidden.¹ Again, on 16th June, also during the discussion of Interpellations on foreign policy, a Preliminary Motion was presented, drawing attention at some length to events connected with an industrial dispute which was in progress within France itself. In announcing the presentation, the President used words which show most clearly how much less the real power of his office is, in matters of relevancy, than that of the Chair in the House of Commons.² A short debate ensued on the admissibility (*recevabilité*) of the Motion, followed by a vote, as a result of which the Motion was declared not admissible. On each of these occasions debate and a vote inevitably decided along political lines, were necessary to deal with what seems to have been a particularly clear case of irrelevance.

It is not therefore surprising that Deputies are able to occupy a great deal of time with speeches which, instead of advancing the business before the chamber, simply use it as a starting point for political propaganda. The failure to check irrelevance is, in fact, now, as it has always been, probably the greatest weakness in French parliamentary procedure.³

¹ V.R., 4th March, 1948, pp. 1340-42.

² "I believe—it is my personal opinion—that a Preliminary Motion ought to have a certain connection (*rappolement*) with the debate in progress. But, as I do not wish my personal opinion to prevail, I shall consult the Assembly on the acceptability of the Preliminary Motion. Thus, in every way and at all times, the Chair (*la présidence*) will have fulfilled its duty" (V.R., 16th June, 1948).

³ The varying effectiveness of the different rules of order, in circumstances of extreme and exceptional disorder, may be gathered from an analysis of the sitting of 29th November, 1947, already referred to. This was held under conditions of crisis. A general strike was in progress. The Government had presented two bills which would give it additional power to deal with the situation, and was anxious to have these passed as quickly as possible. The main opposition party set out to obstruct the passage of these bills by every available means. At the beginning of the sitting it confronted the Assembly with an unforeseen form of obstruction in the shape of repeated demands for Votes by Open Ballot at the Tribune (described on p. 144), but the Assembly—such is the flexibility of its

procedure—was able to switch from the discussion of a bill to the amendment of its Standing Orders, and then, having demolished the obstruction, to continue with the bill.

Apart from this, the opposition relied comparatively little on technical dilatory procedure. Much time was wasted by sheer uproar, which the rules against disorderly conduct could not keep in check—probably no rules which did not infringe unduly upon the rights of Deputies could have controlled such a situation. During the sitting there were administered seventeen Calls to Order (including five with Recording on the Minutes), four sentences of Simple Censure (one of which was withdrawn) and one of Censure with temporary exclusion (for incitement to violence). The Deputy who received the latter sentence refused to leave the Chamber. It was then evening and, the sitting being suspended, he remained on the Tribune all night, surrounded by members of his party. A detachment of the Republican Guard sent to escort him from the Chamber was constrained to withdraw, because its commander was found to have no written order from the President. The censured Deputy did not leave the Chamber until 6 a.m. the following morning, when he finally consented to go under an unarmed escort of the Republican Guard.

The third weapon of the opposition was irrelevance and argument with the Chair, in which an amazing proportion of the sitting was spent. Yet on only one occasion during the four days did the President draw the attention of a Speaker to the irrelevance of his argument.

At the end of all the fact remains that the two bills were passed through all their stages, in Committee and in the Assembly, in some four days—a short time by English standards, and a very short time by those of the United States.

Chapter Seven

THE COMMITTEES OF THE NATIONAL ASSEMBLY

1. The Two Kinds of Committee

IN BRITAIN we are accustomed to the use of committees by the House of Commons, either to save the time of the House, or for some purpose that can be more suitably performed by a smaller body in comparative privacy. The Committee, in fact, is one of the various instruments of procedure which the House has devised for the more efficient conduct of its business. Individual opinions vary as to how much use should be made of it. In recent times the Opposition has on occasion criticised the Government for having sent important bills "upstairs", for their Committee Stage, instead of to a Committee of the whole House, arguing that by so doing the Government has prevented a large number of Members from taking part in these proceedings, and so reduced the control of the House over legislation. This example illustrates the great difference between the position of committees in the House of Commons and in the National Assembly. In France parliamentary committees are regarded as essential instruments in the maintenance of parliamentary control over the Executive, and they play an important and constant role in the work of the Assembly.

This is due to the establishment under the Third Republic of a regular system of what are generally termed "Permanent Committees". A Permanent Committee (*une commission permanente*) means a committee which is set up under Standing Orders, and so will continue to exist indefinitely (unless the Standing Orders are amended), its membership being renewed at regular intervals, but not necessarily altered; and having as its object the study of all matters falling within its terms of reference, which are usually approximately related to the sphere of some Government department.

There are to-day twenty such committees in the National Assembly, called officially General Committees (*commissions*

*générales).*¹ Their terms of reference, if combined, cover practically all sides of governmental activity

The Permanent Committee is to be distinguished from the Special Committee (*Commission Spéciale*), a committee appointed *ad hoc*, for some isolated purpose. Both kinds of committees are known in the Assembly, but very much greater use is made of the Permanent Committees. An analogy has sometimes been drawn between the relationship of Permanent and Special Committees in France, and that of Standing and Select Committees in England. This is misleading. For though the use made in the two countries of Special or Select Committees respectively is not dissimilar, Permanent Committees have far wider powers and competence, and a far greater continuity of membership, than have the Standing Committees of the House of Commons.²

2. History of the Permanent Committee System

The system of Permanent Committees was first evolved in the early days of the Revolution; but it was over a century before it became the accepted institution which it now is. The history of its development makes clear the main arguments that have been adduced for and against it.

In 1789 the Constituent Assembly, even before it had given itself a set of Standing Orders, set up several committees which were certainly Permanent Committees in the modern sense of the term. Each was to deal with a certain class of subject, they included a Finance Committee. These Committees were set up each by a separate decision. A fully worked out system of Permanent Committees was first provided (after long debate) under the Standing Orders of the Legislative Assembly. There were to be twenty-one of these Committees, composed of 12, 24 or 48 members each, to be renewed half at a time after a period of (in most cases) three months. The

¹ Under the Third Republic, the Permanent Committees of the Chamber of Deputies were known as "Grand Permanent Committees" (*grandes commissions permanentes*). The Senate used the term "General Committee", now taken over by the Assembly. In the earlier French Assemblies the word used in the sense of "committee" was "*comité*". Pierre, writing in 1902 (before the reintroduction of Permanent Committees) lays down (§ 737) that "a *commission* has referred to it only one or several individual measures, the mandate of a *comité* is to study a group of matters". But the difference seems to have become blurred and the word "*commission*" is now used of both Permanent and Special Committees.

² The Scottish Standing Committee, however, with its comparatively stable composition and its recently extended terms of reference, is, at least in form, nearer to a Permanent Committee than any other body yet evolved in the House of Commons.

titles of several of them were almost the same as those of certain committees of the Assembly today.

The Convention took over this system provisionally, but proceeded also to set up new committees as it thought fit. The great instrument of the Revolution, the Committee of Public Safety, and the important Committee of General Security, were Permanent Committees. So were the sixteen committees set up, after the fall of Robespierre, with power not only to propose legislation but also to see to its execution. "From 1792 to 1795 the Committees of the Convention were the real seat of the executive powers"¹ The Permanent Committee system was thus in a few years carried to what its opponents, for long after, were to maintain was its only logical and inherently dangerous conclusion—the complete domination of the executive power by parliamentary committees.

The reaction was swift and lasting. When the members of the Convention drew up the Constitution of 1795, they specifically laid down that neither of the two Councils might set up any Permanent Committee. Under the Restored Monarchy a few individual Permanent Committees (notably a Budget Committee) were appointed. In dealing with the small amount of legislative business which they then carried on, each Chamber at first appointed a separate committee for each bill. But in 1839 the Chamber of Deputies gave itself the right to send a private member's bill to a committee already set up to deal with another bill. This was in fact the seed from which a new system of Permanent Committees was eventually to grow, slowly, but with the strength of a practical origin. For though the Constituent Assembly of 1848, prompted by a revolutionary admiration of the Convention, reintroduced a full system of Permanent Committees, the Legislative Assembly (its admiration perhaps a little sobered by the "days of June") excluded it from their Standing Orders of the next year.

These Standing Orders were taken over by the National Assembly of 1871, which thus adopted the use of Special Committees only, and bequeathed it to the two Chambers of 1876. The legislative procedure used at this date by the Chamber of Deputies was a complicated one, especially in the case of a private member's bill. Such a bill had first to be considered by the Committee of Parliamentary Initiative (which was appointed monthly). If this committee so decided, the bill might next have to be considered in each of the eleven

¹ Pierre, § 737.

bureaux,¹ and after that by a Special Committee consisting of one or more members appointed from each *bureau*; this committee would finally report the bill to the Chamber. This procedure was not only slow in itself; it was also liable to produce unpredictable and absurd results. The composition of a Special Committee, since it consisted of representatives of the *bureaux*, which had been chosen by lot, often bore no relation to that of the Chamber. Or it might happen that all the experts on the subject of a particular bill found themselves in the same *bureau*, so that most of them were bound to be excluded from the Special Committee. Again, several bills dealing with similar matters might be considered by separate committees, with conflicting conclusions. So, as the quantity of legislation grew, the Chamber resorted more and more to the practice introduced in 1839, of sending bills to Special Committees already appointed to consider bills with similar subject matter. In this way something like a system of Permanent Committees began to grow up through force of circumstances. At the same time several individual Permanent Committees, in the full sense of the term, came into being one by one.

Nevertheless, the introduction of a regular and admitted system of such committees was opposed for many years. It was first proposed in 1882, and after that in each succeeding legislature, until finally adopted in 1902. The opponents of the system used mainly theoretical arguments. On the one hand they conjured up the history of the committees of the Convention, on the other, they prophesied that Permanent Committees under modern conditions would paralyse the executive, especially if each committee were related to a Government Department. Those who favoured the system argued that it would make a great addition to the efficiency of the Chamber. As the conservative elements in French politics weakened, so did the opposition to Permanent Committees.

The system adopted by the Chamber in 1902 is still in force in the National Assembly to-day, after certain changes. Until 1910 (and in the case of the Budget Committee until 1915) the Permanent Committees were chosen by the *bureaux*, since then they have been composed through proportional nomination by the political parties.² They were appointed for a whole

¹ See below, p. 172

² A relic of the days when the Permanent Committees were chosen through the *bureaux* still survives in their size, forty-four members, being a multiple of eleven, which was the number of *bureau* regularly set up by the Chamber of Deputies from 1876 onwards.

legislature till 1920, after that date for a year only. The number of the committees, their size and their attributions have not been greatly varied. The Senate adopted a similar system in 1921.

Between the wars a considerable amount of criticism was levelled at the system on the grounds both that it had indeed led in practice to undue interference by the Legislature in the working of Government departments, and that it was a clumsy and inefficient form of parliamentary procedure. One formidable critic, M Poincaré, went so far as to write, in 1933, that "What more than anything else impedes the normal working of our regime is the existence of the Grand Committees".¹ Nevertheless, the system remained firmly in force. It was readopted in a modified form in 1943 by the Provisional Consultative Assembly, and in its full form by the two Constituent Assemblies. Its existence is implied in the Constitution of 1946² and confirmed by the Standing Orders of both the National Assembly and the Council of the Republic.³

3. Role and Position of the General Committees

In principle, the role of General Committees is held to be the examination of bills and of Proposals for Resolutions, which are referred to the appropriate committee immediately after presentation to the Assembly. The committees study such documents systematically, can amend and even reject them completely, and finally, if they accept them, return them to the Assembly with a written or oral report. Financial bills are subject to the same procedure as others, and the Finance Committee has special rights in respect of the financial aspects of other bills. In practice, a committee examines any matter which it wishes, provided that it falls within its terms of reference, and can if necessary request (and usually in that case obtains) the power to carry on investigations outside the precincts of the Assembly, either at home or abroad. Ministers may not be members of committees; but they have a constitutional right to appear in them.⁴ They frequently do so

¹ In *L'Illustration* of 26th May, 1933

² Art. 15.

³ Fuller accounts of the development and working of the Permanent Committee system down to the last decade of the Third Republic are given by Professor R K Gooch, *The French Parliamentary Committee System* (D Appleton—Century Company, New York, 1935), and by Joseph-Barthélemy, *Essai sur le Travail Parlementaire et le Système des Commissions* (Librairie Delagrave, Paris, 1934).

⁴ Const. art. 53 Under the Third Republic Ministers did not have this privilege as a constitutional right, but their appearance before committees became a recognised and frequent practice.

either at their own request or at the invitation of a committee (which a minister would be most unwise to refuse). On such occasions statements of policy may be heard and questions asked, and the committee may embody its conclusions either in a motion, addressed to the minister, or in more important matters in a resolution to be presented to the Assembly. The work of one committee, that on Foreign Affairs, consists mainly in such general examination of Government policy. The General Committees, in fact, play a leading part, not only in legislation, but also in the control of financial policy and of administration—that is, in the three main functions of the Assembly.

The Permanent Committee System has thus developed into an indispensable element in French parliamentary procedure, and a treasured instrument for the maintenance of parliamentary control over the Government. Its importance is symbolised by the special Committee Benches, which are reserved next to the Government Benches in the chamber. The Presidents and Reporters of Committees also possess various special rights in debate, and the Presidents attend, with the party leaders, the weekly Conference of Presidents, at which the programme of business for the following week is drawn up. The Assembly has, indeed, reserved to itself, and uses, the right to appoint Special Committees for definite purposes,¹ but to abolish the Permanent Committees system would amount to a revolutionary change in the whole working of Parliament.

4. Competence and Membership of the General Committees

The National Assembly has at present twenty General Committees to which the following classes of subject matter are respectively attributed:

1. Economic Affairs (including Customs and Commercial Agreements).
2. Foreign Affairs.
3. Agriculture.
4. Fermented Liquors (*boissons*).²
5. National Defence.
6. National Education (including those aspects of it connected with the arts, with the organisation of young people and with sport and relaxation).

¹ S.O. 14

² First set up under a Resolution of 20th May, 1949

- 7 Family Life, the Population and Public Health.
8. Finance.
9. The Interior (including Algerian Affairs, and internal administration, general and local).
10. Justice and Legislation.
11. Merchant Shipping and Fisheries.
- 12 Communications and the Tourist Industry (including railways, air lines and the postal, telegraphic^a and telephonic systems).
- 13 Pensions (civil and military, and those paid to victims of the war and of oppression during it).
14. The Press (with broadcasting and the cinema).
15. Industrial Production.
16. Food Supply.
17. Reconstruction and War Damage.
18. The Franchise (*le suffrage universel*), the Standing Orders and Pétitions.
19. Overseas Territories.
20. Labour and Social Security.

The terms of reference correspond in each case approximately, though not exactly, to the sphere of action of a Government department. Each Committee has forty-four members. No Deputy may belong to more than two of them. A member of a committee is known as a *commissaire*.

An Accounts Committee (*Commission de comptabilité*), of eleven members, is also nominated at the same time and in the same way as are the General Committees. Its function is to supervise the expenses of the Assembly. Since February, 1949, a Committee of Parliamentary Immunity consisting of twenty-two members has also been set up each session by the same method.¹ These two committees, though permanent, are not technically General Committees.

The political parties are represented on each committee in the same proportion as they are in the whole Assembly, and it is therefore virtually through the parties that the members of committees are nominated. The Bureaux of the various parties, having agreed upon the number of seats to be allotted to each party, submit to the President of the Assembly a combined list of the proposed members of each committee. This list must be submitted three days before the date fixed for the nomination of committees, and is published in the Official Journal. If the list is not opposed by not less than fifty Deputies, it is duly ratified and the committees are nominated

^a See Chapter IV, Part V.

on the appointed date. If there is such opposition, a vote is taken in the Assembly. When casual vacancies occur after the setting up of the committees, the party of the Deputy whose place is to be filled submit the name of his proposed successor to the President of the Assembly, and it is ratified under the same conditions as were the main lists¹

The committees must be set up at the beginning of each legislature, and remain in being, as then nominated, for the first two sessions of that legislature. They must be nominated afresh in each of the remaining two sessions.² Matters referred to a committee before its renomination, and not disposed of by it, stand automatically referred to its successor.³ Under the Third Republic it became usual to make little change in the composition of committees at their annual renewal—a natural course of proceeding, which will no doubt be continued. A committee has also the right, in the first year of a new legislature, to have a report of a Committee in the preceding legislature referred to it, and to present it afresh to the Assembly, with or without amendment. Other Deputies can also have such a report referred to a committee, subject to the vote of the Assembly.

5. The Distribution of Work Among the General Committees⁴

Bills and Proposals for Resolutions, and documents relating to them, are normally referred by the President of the Assembly direct to the appropriate committee, immediately after presentation to the Assembly. It is usually clear which committee is competent to deal with the matter. If a committee, after beginning the consideration of a bill or Proposal for a Resolution, decides that it would more appropriately be dealt with by another committee, it so informs the President, "declaring itself incompetent" to deal with the matter, which is then referred to the committee considered more suitable. Any dispute as to which committee is the most suitable, is decided by the Assembly, but such disputes are not frequent.

A committee to which a bill or a Proposal for a Resolution is referred for full consideration in principle and in detail, is known as the Main Committee (*la commission saisie du fond*), in respect of it. If some other Committee considers that the bill or Proposal for a Resolution is also related, though less directly or less completely, to its terms of reference, it can ask to be

¹ S O 16

² S O 14

³ S O 25

⁴ S O 25 and 27

empowered to consider it also in an advisory capacity (*pour avis*). If the Assembly grants this request, this other committee becomes an Advisory Committee (*une commission saisie pour avis*). It appoints a Reporter (see below, pp. 182-4) who may attend the meetings of the Main Committee in a consultative capacity, while the Reporter appointed by the Main Committee may similarly attend those of the Advisory Committee. The opinion of the Advisory Committee will be given in an Advisory Report, made either in writing or orally at the time of the appropriate debate in the Assembly. A bill or a Proposal for a Resolution can be referred to two or more Advisory Committees at the same time.¹

The Assembly has also reserved to itself the power to create temporary or permanent "Committees of Co-ordination" (*commissions de coordination*), to consider matters which are related to the terms of reference of more than one committee. The proposal to follow this course must originate with the Presidents of the committees which consider themselves concerned, and the Committee of Co-ordination would be composed of members delegated by these committees².

Joint meetings of two committees are occasionally held, generally for the purpose of hearing a Government communication which touches the terms of reference of each committee, or concerns a bill which one is considering as the Main and the other as an Advisory Committee. On 10th April, 1946, (under the first Constituent Assembly) for example, the Committees of Foreign Affairs and of Overseas Territories held a joint meeting to hear statements from, and put questions to, the Foreign Minister and the Minister of French Overseas Territories, on the related subjects of Indo-Chinese affairs and of treaties between France and China.

6. How the General Committees Work

"In principle" the whole of each Wednesday during the session and the mornings of other days are devoted to the meet-

¹ The phrases "*la commission saisie du fond*" and "*la commission saisie pour avis*" mean literally "the committee to which the essential features (sc. of the bill, etc.) have been referred", and "the Committee to which (sc. the bill, etc.) has been referred for its opinion (or advice)". To avoid the clumsy effect which would have been produced by the constant use of these phrases, I have throughout rendered them freely as "the Main Committee" and "the Advisory Committee" which are the sort of expressions that would be used in English in similar circumstances. "*Avis*" means both the opinion or advice of a committee, and the written or verbal report in which it is expressed. Wherever it has, or includes, the latter sense, I have, for similar reasons, used the expression, "Advisory Report".

ings of Committees,¹ it being intended that the Assembly should not meet at such time, and that Deputies should then be free for work on committees. But the programme of the National Assembly has up to now been far too heavy to permit strict observation of this rule, and committees have often had to meet while the Assembly was sitting, or while sittings were suspended.

Each committee has its own permanent meeting room, as well as one or more smaller rooms, in which preparatory work, such as the writing of a report, can be carried on. It also has continuously at its service members of the Committee Department (*le Service des Commissions*) of the Permanent Staff of the Assembly who have offices adjacent to their respective committee rooms.² Thus, unlike a committee of the House of Commons, a General Committee has a permanent centre, in which it can collect all the documents necessary for its work, and keep them readily available. A civil servant, from the appropriate department, may also be seconded to the service of a committee, at the request of its President, such a position has sometimes been held by the same civil servant for years at a time. His task is simply to give information, and he may take no part in the work of the committee, nor are its Minutes available to him. Civil servants attached to the Finance Committee and the Committee of National Defence may have an office within the buildings of the Assembly.³ The President and the Reporter of a committee are also entitled to the assistance of an official of the Assembly, when taking part in a debate in the Assembly.⁴ All these arrangements go far to secure that continuity of work which is of the essence of the Permanent Committee system.

The first task of a General Committee after its nomination is to appoint its Bureau. For this purpose the committees are convoked by the President of the Assembly (since they have as yet no officers of their own). Each Bureau consists of a President, two Vice-Presidents and two Secretaries. The Finance Committee also appoints a General Reporter.⁵ Once the Bureau has been appointed, it is the function of the President of a committee to arrange and convoke its meetings. He must normally do so at least forty-eight hours in advance, and at the

¹ S.O. 24

² S.O. 14

³ G.I. VIII

⁴ S.O. 44

⁵ S.O. 13 See p. 217

same time inform his members of the agenda which will be before them. In certain exceptional circumstances he may call an immediate meeting to consider some matter arising during a sitting of the Assembly,¹ such meetings being sometimes announced in the Chamber by the President of the Assembly. When possible, meetings are also announced on the Order Paper of the day on which they are to be held.

Attendance at meetings of committees is in theory compulsory, although a member may designate another Deputy as his substitute (*suppléant*) for any single meeting. If a member is neither present himself, nor represented by a substitute, at three consecutive meetings or at a third of the meetings held within one month, the Standing Order lays down that he shall be declared to have resigned; but this rule seems seldom, if ever, to have been enforced. A member who has to leave a meeting while it is still in progress may give another member permission to vote on his behalf.²

Meetings of Committees are not open to the public, and are normally attended only by the members of the committees or by their substitutes. A Minister, however, has, as has been described, a constitutional right to attend any committee, and to speak there, accompanied if he so wishes, by expert advisers from his department.³ A private Member who has introduced a bill or proposed an amendment has a right to attend a committee when his proposal is under consideration, but must leave when a vote is held.⁴ Under certain circumstances also, a member of one committee may attend another (see pp. 166 and 217). When a bill has been referred to the Economic Council or the Assembly of the French Union, the Reporter of whichever body is concerned must be given an opportunity to put its opinion before the main committee.⁵ Committees also sometimes receive delegations of persons outside Parliament. These exceptions do not fundamentally affect, the privacy of committee meetings. A committee cannot examine witnesses unless it has obtained Powers of Enquiry from the Assembly (see p. 170).

In view of this principle of privacy it is not the practice to publish the Minutes (*le procès-verbal*) of any committee meeting. Still less is any Verbatim Report published; such a report, in fact, is only kept on the occasion of a Minister's appearance

¹ S.O. 30

² S.O. 15

³ Const., art. 53, and S.O. 26

⁴ S.O. 26.

⁵ S.O. 28.

before a committee. At other times the Minutes are fairly summary in form. They are preserved in the committee rooms, where they may be consulted by any Deputy until the end of a legislature, after which they are deposited in the Archives of the Assembly.¹

Each week, however, a Summary of Committee Proceedings (*Bulletin des Commissions*) is published, containing a brief summary of the proceedings of each committee during the preceding seven days. This must include a record of any Votes by Ballot held, with the names of the members voting.² It gives no more than a very short precis of the speeches of Committee members. Deputies are therefore able to speak more freely than in the chamber, and are protected by the purely customary rule, unsupported by any sanction, that speeches made in Committees are not referred to in the chamber. Ministers have, on certain occasions when they wished to disclose information confidentially, asked for an express undertaking that it shall not be divulged by members of the committee. Such requests have usually been granted; but were they refused, the Minister would be considered to be justified in withholding the information.

In the case of committees of particular importance, it has sometimes been decided to publish an Analytical Report, similar to the daily Analytical Report of proceedings in the Assembly. This was done in the case of the two Constitutional Committees of 1945-46 (the Report running to around 800 closely printed pages in each case) and more recently is that of the Committee of Enquiry mentioned on p. 271. When an Analytical Report is published, the press is enabled to give a day to day account of proceedings in the committee concerned, which, though still sitting in private, may well be subjected to publicity on the widest scale.

7. The Procedure of General Committees

No special rules (except in relation to votes) are laid down concerning the procedure of committees and in general that of the Assembly itself is followed. A considerable amount of unwritten custom has naturally developed. The smaller size both of a committee itself and of its place of meeting must make for greater informality than is seen in the chamber. This is no doubt further increased by the seating arrangements,

¹ S O 25.

² S O 30.

since the members do not sit as in the chamber, but at a table. The President may take part in the discussion while still exercising his presidential functions¹ (as in the case of the Chairman of a Select Committee in the House of Commons, though not as in that of a Chairman of a Standing Committee). He can vote, but does not have a casting vote, if a vote results in a tie, the proposal which was its subject is defeated.² The general course of proceedings on a bill is described in Chapter VIII.

A Vote by Ballot in a Committee is not valid unless a majority of the members are present, but this rule appears not to be strictly observed. In any case, if a Vote by Ballot is prevented by the absence of this quorum, it can be validly taken, even without a quorum, at the beginning of the next sitting, provided that this is held at least an hour later. A Vote by Ballot must be held if demanded by three members.³ Otherwise voting is usually performed by raising of hands.

If a committee wishes to conduct an enquiry outside the precincts of the Assembly, it must obtain Powers of Enquiry (*pouvoirs d'enquête*) from the Assembly.⁴ It may then appoint not more than seven of its members to make this enquiry.⁵ This power is given with considerable frequency. A committee cannot examine witnesses on oath unless it obtains, by a special decision of the Assembly, the more extensive powers of investigation specified in the Act of 23rd March, 1914, "relating to Evidence received by Parliamentary Committees of Enquiry". This act provides for the punishment of persons found guilty of refusing to give evidence or to take the oath, of perjury or of bribery of a witness before such a Committee.⁶

8. *Special Committees*

The Chamber of Deputies, when it set up the Permanent Committee System, kept itself free to appoint Special Committees for particular purposes, if it so wished. The most famous example of such a Committee before 1940 was the Committee on the Peace Treaties of 1919. This had sixty members, and its institution removed the Peace Treaties from

¹ Pierre, § 747

² S O 30

³ S O 31

⁴ G I IX

⁵ The provisions of this act have recently been re-enacted, with slight modification, in clause 9 of Act No. 50-10 of 6th January, 1950, "amending and codifying the law relating to the Public Powers".

the competence of the Foreign Affairs Committee, which otherwise would have expected to consider them. The National Assembly has reserved itself the same freedom in its Standing Orders,¹ and has already made use of it. On 24th July, 1947, for example, it set up a Special Committee on Administrative Reform, nominated (as the Standing Orders lay down) in the same manner as a General Committee, and in other respects made subject to the same rules. It was empowered to report its conclusions and to make legislative proposals. A Special Committee on the Problems of the Wine Industry, appointed on 7th February, 1947, was nominated in a different manner, the members being designated by two General Committees. It should be noted that the appointment of each of these Committees was the outcome of a Resolution, which had been considered and reported on by the Committee on the Franchise, Standing Orders and Petitions, and which in the second case, had originated in another General Committee. There was therefore, no question of any attempt to evade the General Committees by the use of Special Committees.

Since the task of a Special Committee is usually to investigate closely into some specific problem or affair, such committees are frequently given the full Powers of Enquiry described above. A Special Committee invested with such authority is often known as a Committee of Enquiry (*une commission d'enquête*). It has been held to be the most powerful weapon available to the Legislature in its task of controlling the Executive. A Committee of Enquiry is the means normally used to investigate any alleged major public scandal. A recent and typical example of such a committee was that set up in 1949 to investigate alleged scandals said to involve the unauthorised disclosure of military information (the so-called "Revers-Mast" affair).

Special Committees of a different type are still frequently used for the particular purpose of enquiry into electoral disputes, as described in Chapter IV. Such a Committee is charged with the ascertainment of facts in an isolated instance—a task in which the relative representation of the parties should be immaterial. It is therefore understandable that for appointment of such Committees the old procedure of nomination by the *bureau* has been retained, as it was also till 1949 in regard to Committees appointed to examine Requests for Authorisation to Prosecute Deputies. The nature and functions of the *bureaux* themselves must now be described.

9. *The Bureaux*¹

Side by side with the Committees, General and Special, the Assembly also still retains, for a few special purposes, the relics of an older system. The division of the whole Chamber into a number of sections, entitled *bureaux*, for the purpose of preliminary consideration of some matters, is indeed one of the oldest pieces of French procedure. It was known in the States-General and the Assemblies of Notables of the Old Regime, and, apart from the period from the installation of the Convention to 1814, has been constantly used in French Assemblies since the Revolution. The two characteristics which distinguish the *bureaux* from committees are that their members are chosen by some form of chance and that they contain between them the whole body of Deputies, who are divided into sections, not in order that each section may specialise on a different matter, but that all Deputies may study the details of the same matter, in a more convenient way than can be done in the full Assembly. From 1814 till the end of the nineteenth century it was the rule that all bills were considered in the *bureaux*, that is, in all the *bureaux*, before the Committee stage.² This method of work, which sounds highly inconvenient now, was at one time considered an essential and characteristic part of French procedure. Its advantage was held to be that it enabled every member to study the details of every bill, and that in consequence the Chamber could arrive at a truly representative decision; and also that it provided useful training for inexperienced speakers.³ As the quantity and complexity of legislation increased during the nineteenth century, the use of *bureaux* for the consideration of bills became less and less practical and was finally abandoned, as already described in this chapter. The functions of the *bureaux* are now confined to the preliminary examination of Deputies' Credentials, and to the appointment of Committees to inquire into electoral disputes, as described in Chapter IV.

The *bureaux* have usually been, and are now, chosen by

¹ There is no equivalent in British procedure to the *bureaux*, and therefore no attempt has been made to render the word by an English term. Similar systems are used in the Chamber of Representatives of Belgium and the Chamber of Deputies of Luxembourg (in each of which the divisions are known as *sections*), and have been known at one time or other in Austria, Germany, Hungary, Italy and Spain.

² The Charter of 1814 (art. 45) imposed this method of working on the Chamber of Deputies in the case of Government bills.

³ See Pierc. § 711.

lot¹ In 1876 M. Tamisier, a Senator, invented a device by which the complete process of allotting deputies to *bureaux* could be performed in one operation “*L'appareil Tamisier*” was used, in slightly differing forms, in the Chamber of Deputies and the Senate of the Third Republic. The model used in the Chamber consisted of a box, divided into eleven compartments (one for each *bureau*). The appropriate number of small balls, each bearing the name of a Deputy, were thrown into the box, and were bound to come to rest in the eleven compartments, each of which was exactly large enough to contain the same number of balls as there were to be Deputies in each *bureau*.

For a long time membership of the *bureau* was re-allotted every month. This practice ceased during the Third Republic, and the *bureaux* are now set up for the duration of a legislature. A Deputy who takes his seat during a legislature to refill a vacancy is assigned to the *bureau* to which his predecessor belonged. Under the Third Republic the Chamber of Deputies had eleven *bureaux*. In the National Assembly there are ten (nine having 62 members, and the tenth 61). The *bureaux* are numbered, and are known as the first, second, etc., *bureau*. Each elects a President and a Secretary.

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¹ In the first Constituent and Legislative Assemblies, and in the second Constituent Assembly of 1848, the names of Deputies were distributed in alphabetical order.

Chapter Eight

THE NATIONAL ASSEMBLY AND LEGISLATION

I. HISTORY AND PRINCIPLES OF LEGISLATIVE PROCEDURE

I. Historical Development

THE RULES concerning the passing of legislation have probably undergone more change than any other branch of French parliamentary procedure. This has been the result partly of the various constitutional changes involving the right to initiate legislation (described in Chapter I), partly of experiment and development within the Legislature itself, and, more recently, of the great increase in the amount of legislative business.

Before the Revolution, no real legislative procedure had been developed by the States-General at all. The Standing Orders of 1789 treated proposals for legislation, together with those of a constitutional nature, as a special form of motion. Within the next ten years, a number of variations of procedure were tried, revealing several characteristics which were to re-appear in the next century. From the first, the rules provided for consideration of bills by some sort of committee at a very early stage of their career. Indeed, under the Convention, as described in Chapter VII, Permanent Committees were invested with an authority which they have never again possessed. Most of the sixteen committees set up in 1794, after the fall of Robespierre, were empowered themselves to propose legislation relating to matters within their competence. Under the Empire, legislative procedure was naturally of little importance. The beginnings of modern procedure may be discerned under the Restored Monarchy. Its direct descent can be traced from the Standing Orders of the Legislative Assembly of 1849.

Under these Orders, the opening stages of the procedure differed for Government bills and for private members' bills. A Government bill¹ was referred at once to the *bureaux* and

¹ The annual Finance Bill was already subject to special procedure, for which see Chapter IX

considered first separately in each of them and then in a committee of representatives of each *bureau* (though it was also possible to refer it direct to an already existing Committee). A private member's bill had first to be considered by the Special Committee for private members' bills, after which the Assembly discussed and voted on the question whether or not it should be taken into consideration. If this was agreed to, the bill was sent to the *bureaux* and thereafter followed the same course as a Government bill. When a bill had been reported to the Assembly (by the Committee set up by the *bureaux*), it had to undergo three separate Deliberations (*délibérations*). The first was confined to the bill as a whole, at the second the bill was considered clause by clause, and amendments could be moved; the third consisted of a brief repetition of both processes, and ended with a final decision (*vote définitif*) on the whole bill as amended. Between each Deliberation an interval of at least five days was required.

This procedure was taken over by the National Assembly in 1871. The Chamber of Deputies modified it, in its Standing Orders of 1876, by reducing the number of Deliberations to two, with an interval of not less than five days between them. The first consisted of a General Discussion on the bill, followed by discussion clause by clause. The second began with a further discussion clause by clause, and ended with a final decision. Under the Third Republic the preliminary stages peculiar to private members' bills gradually fell into disuse. The use of *bureaux* and committees nominated by them was replaced in the Chamber of Deputies in 1902 by the adoption of the Permanent Committee system, as described in Chapter VII. The requirement of two Deliberations was finally abandoned by the Chamber of Deputies in the Standing Orders of 1915 (though the possibility of holding a Second Deliberation was retained, as it still is). Legislative procedure had thus been fined down to its present lines and no major changes have been made in its general principles since.

2. *Outlines of the present Procedure*

The examination of a bill by the Assembly, in committee and in the chamber, before it is sent to the Council of the Republic, now consists of the following stages

- (1) *Presentation* of a bill, which is immediately ordered to be printed and published, and is referred to the appropriate Committee.

- (2) Consideration in *committee* (ending with the presentation of the committee's report).
- (3) *General Discussion* in the Assembly, ending with a vote on Passing to the Clauses.
- 4) *Discussion of the Clauses*, with the moving of amendments if any are proposed.
- (5) *Vote on the Whole Bill*, preceded by a limited debate of a general nature.

No interval need elapse between stages 3 and 4, nor between stages 4 and 5, and normally the Assembly proceeds immediately from one of them to the next. Taking account of that fact it may be said that the General Discussion is equivalent to a Second Reading under British procedure, transposed so as to take place after, instead of before, the Committee Stage, and that the Discussion of Clauses and the Vote on the Whole Bill resemble in some respects the Report and Third Reading stages respectively.

The main difference between the French and the British procedure lies in the use made of the Committee Stage. In British legislative procedure, the long-established rule for public bills is that the House itself should first decide whether it is in favour of the principle of a bill, and that, if it is, it should then refer the bill to a committee; and that the committee is empowered only to amend the details of the bill, and not to alter the already agreed principle. In France, on the contrary, there has from the early days of parliamentary history been a tendency to send bills for scrutiny by a committee before considering them in the chamber. Under the Third Republic this tendency could be supported by strong practical arguments, which have perhaps become still stronger under the Fourth. The right of a private member to present a bill is still unlimited. Free use is made of it, and as the figures given below show, by far the greater number of private members' bills never become law. If every such bill introduced had to be first considered in the chamber, an enormous amount of time would be spent on such proceedings, and most of it would be wasted. In Britain this danger has been avoided by rules strictly limiting the opportunities of private members to promote legislation. The French have preferred to do it by what they probably consider a more democratic method—by referring the bills to committees, from which many of them never emerge.

It should also be remembered that in France since 1875 Government legislation has usually been carried on under very different circumstances from those existing in Britain. A French

Government has seldom, if ever, had the assurance, normally possessed by a British Government, that it will remain in power long enough to see a carefully considered legislative programme passed into law. Indeed, many a Government bill has seen the fall of more than one Cabinet during its passage through Parliament. This instability, and the resulting need for haste on the part of each Government (as well as the absence of a central drafting department) are bound to mean that Government bills, when presented, have often undergone far less thorough preparation than such bills usually receive in this country. The preliminary committee proceedings give both the Deputies and the Government itself an opportunity to eliminate faults of hasty drafting and generally to pull the bill into shape, without wasting the time of the chamber on such work.

The preliminary consideration of bills in committee is now one of the most characteristic of the methods of French procedure, as the system of Permanent Committees, through which it is carried out, is one of its most firmly established institutions. To abolish either would constitute a radical change.

The proceedings on the bill in the Assembly itself before it has been sent to the Council of the Republic constitute its First Reading (*première lecture*). If it is returned from the Council with amendments, the amended portions are again considered by the Main Committee, and then by the Assembly in what is known as Second Reading (*seconde lecture*). These two terms should be distinguished from those already mentioned, of First and Second Deliberations (*délégérations*), which refer entirely to proceedings before a bill has been sent to the Council; and from that of Fresh Deliberation (*nouvelle délégération*), meaning an entirely new consideration of the whole bill by both Chambers, which they may be asked to hold by the President of the Republic under article 36 of the Constitution.¹

3. *The Two Classes of Bill*

Reference has already been made to the two classes of bill—the Government bill and the private member's bill.² The distinction may be said to date from the Charter of 1814. Under its provisions, it will be remembered, the King alone could present bills to Parliament. The Chambers might only "humbly petition" him to present a bill, and suggest its contents. When, under the Charter of 1830, each Chamber

¹ See below, pp. 204-5.

² The phrase, "private member's bill" is used, rather than "private Deputy's bill", since such a bill may be presented by a member of either Chamber.

received the right to propose legislation, a distinction was recognised between bills initiated by the Government (*d'initiative gouvernementale*) and bills originated by Parliament (*d'initiative parlementaire*). The former type of bill became, and has remained, known as a *projet de loi*, (literally “a project for a law”), the latter as a *proposition de loi* (literally “a proposal for a law”). The differentiation of bills into these two classes become well established under the Third Republic and has been maintained.¹

The present Constitution states that “The Prime Minister and Members of Parliament have the right to initiate legislation.”² The Prime Minister, of course, enjoys his right on behalf of the whole Government, any member of which may present a Government bill. The phrase “Members of Parliament” includes members of the Council of the Republic, and bills can in consequence be presented in that Chamber. But since the function of passing law belongs to the Assembly alone, and the part of the Council is simply to make suggestions, bills presented in the Second Chamber are sent immediately to the First, where they go through the same procedure as bills originally presented there.³ During the session of 1949 the Council of the Republic tried unsuccessfully to take to itself the right to refer bills presented by its Members to its own Committees, before transmitting them to the Assembly. The Assembly resisted this procedure, as being contrary to the Constitution, and the attempt was abandoned by the Council.⁴ The Government naturally presents its bills in the Assembly only, since there would be no object in doing otherwise.

The same procedure is used for each class of bill. The Government however, has certain rights at various stages which help it to make progress with its own bills, while since it has a majority, however unstable, there is naturally a tendency in practice, in committees and in the Assembly, for Government bills to be considered before private members’ bills. In fact, under modern conditions, much the greater amount of legislation which is finally passed into law has been initiated by the Government. Between 28th November, 1946 and the 6th January, 1948, for example, the Government presented about 400 bills, of which 207, or nearly half,

¹ The word “bill” is used throughout without further qualification either to cover both kinds of bill, or to describe one of the two kinds, wherever the context can leave no doubt of the sense intended.

² Art. 14

³ Const., arts 13, 14 and 20

⁴ See pp 259–60.

were passed by Parliament. In the same period 1,041 private members' bills, were presented by Deputies, and a further 86 were transmitted from the Council of the Republic, and out of these two groups 66, or about 1 in 17, were passed. Half of these were bills of so uncontroversial a nature as to be passed under the procedure "without Debate". Thus out of the total of 273 bills of both kinds passed, more than three-quarters were Government bills.¹

The distinction between the two classes does not extend to bills once they have become law. Each kind of bill is then known as *une loi*, that is, an act, or law.

The distinction, recognised in British procedure, between public and private bills (that is, between bills of general effect and those of local or personal effect only) is not known in France. Legislation of local interest can be proposed in the form of a general bill. At one time local matters were frequently dealt with in this way, but now they are more often settled by means of administrative orders made under the authority of a general act. It should, however, be borne in mind, in considering the figures given above, that many of the private members' bills passed by the Assembly concerned matters which in England would be dealt with by Private Bill, or even by delegated legislation.

II THE PRELIMINARY STAGES

1. Preparation of Bills

There is no central drafting department in France corresponding to that of the Parliamentary Counsel in Great Britain. Government bills are drawn up in the departments concerned and, as will be explained later, once they have been presented the Government itself has in theory no power to amend them. Private Members draw up their own bills, though they can obtain advice on matters of form from permanent officials of their Chamber.

2. Presentation (*dépôt*) of Bills²

When a bill is to be presented to the Assembly, it must in theory be laid upon the Table (*posé sur le bureau*) in the

¹ Corresponding figures for the years 1948 and 1949 show a tendency for the proportion of private members' bills passed to increase, in relation both to the total number of such bills presented in the two Chambers, 189 to 830 in 1948, and 204 to 860 in 1949, and to the number of Government bills passed 139 to 505 in 1948, and 204 to 361 in 1949.

² S O 20

course of a sitting. This is sometimes still done. The more frequent practice, however, now is to send a copy of the text either to the President of the Assembly or to the section of its permanent staff concerned. Provision is made for it to be printed and distributed to all Deputies, a serial number is allotted to it, and it is immediately referred to the appropriate General Committee. All these proceedings are announced in the Minutes of the Assembly at the earliest opportunity, in a formalised entry, of which the following is an example:

"The President. I have received from M. Lussy and several of his colleagues a bill calculated to extend to deported persons who belonged to Resistance Movements the same advantages enjoyed by deported persons who were members of the Fighting French Services.

"The Bill will be printed under the number 124, and, if there is no opposition, referred to the Committee of Pensions."

This is one of twenty-three similar entries (all but one concerning private members' bills), from the Verbatim Report of 17th December, 1946. Such announcements, though always put in the form of a speech by the President, are generally in fact "book entries", and are not spoken by him. Sometimes, however, in the case of an important text, the President makes the announcement orally. Occasionally, to mark a presentation of special importance, he calls upon a minister himself to read the title of a bill which he is presenting. The rules concerning the decision as to which is the competent Committee have been described in Chapter VII.

The Admissibility (*recevabilité*) of a bill transmitted to the Assembly after having been presented in the Council of the Republic, may either be decided by the President himself, or submitted by him to a limited debate and decision by the Assembly. If ruled or voted inadmissible (*inecevable*) the bill is returned to the Council. As a reply to the recent proposals of the Council to refer bills presented by its Members directly to its own committees, the Assembly amended its Standing Order No. 20. This now makes it clear that no bill which has been debated in the Council, either in the chamber or in committee, can be received by the Assembly. A bill received from the Council which has been decided to be admissible (*recevable*) is printed and distributed, and referred to the appropriate committee. The subsequent procedure on it is the same as on a bill presented in the Assembly.

A Deputy can withdraw a bill which he has presented, at any time, even after its consideration in the Assembly has begun. The bill can, however, be taken up by another Deputy, and if the Debate has then begun, it is continued.¹ The Government can also withdraw a Government bill. It can then be taken up by a private Deputy, being treated as a private Member's bill, but this is not a common occurrence.² A bill presented by a Senator may be withdrawn by him while it is in the Assembly.

3. Form of Bills³

When printed, a bill is headed on its front page with the serial number allotted to it, and a note of the legislature and session in which it has been introduced. It is described as an annex to the Minutes (*annexe au Procès-verbal*) of the day on which its presentation was announced. This is followed by the title, an indication of the committee to which it has been referred and the name of the Deputies presenting it. The title is similar to the Long Title of a British bill, but usually more summary. It consists of a phrase, or phrases, describing briefly the effect which the passing of the bill will have. For instance, Bill No. 1653 of the Session of 1947 was described as a "Bill with the object of sanctioning (*tendant à sanctionner*) the violation of rules concerning the accounting of expenses of state and establishing (*portant création de*) a 'Court of Budgetary Discipline'." This title remains with the bill throughout its course, and after it has become law, although subject to modification by the Assembly. The bill does not receive any other shorter name, corresponding to the British Short Title. Colloquially, however, bills and acts are often known, in the American manner, by the name of their introducer. The "Bill enacting an organic Statute for Algeria" of 1947, for example, was known as the "*projet Dépêcheux*", after the Minister of the Interior who introduced it.

After this descriptive matter will come the Statement of Intentions (*exposé des motifs*), which must always be attached to every bill. This has some resemblance to the Explanatory Memorandum often prefaced to a bill when introduced into the British Parliament, though the arguments are usually set out at greater length than in the latter. It will be followed by the text itself (preceded in the case of a Government bill by a

¹ S.O 21

² See Pierre, § 77

³ G.I.V

short introductory formula).⁶ The text must be divided into clauses (*articles*) which may be grouped into chapters (*titres*) bearing descriptive titles. When necessary schedules (*états*) are added after the clauses. At the end of all are set out the signatures of the Deputies who have presented the bill. No annex, table or diagram may be appended to a private member's bill, though the movers may send such documents to the committee concerned.

III. THE COMMITTEE STAGE

1. *Powers of the Main Committee*

The powers of the Main Committee over a bill referred to it are limited only by certain rules regarding the time at its disposal. It is not bound, as is a House of Commons Committee, to maintain the principle of the bill, since that principle has not yet been decided upon by the Assembly. It can therefore amend a bill as it likes, and can, and usually does, substitute its own Statement of Intentions for the original one. Further, it can decide not to take a bill into consideration at all, or, having taken a bill into consideration, report that it should be rejected. In either of these cases the bill is rejected if the Assembly accepts the report.

Nor is a committee bound to consider bills in a particular order. It will tend, especially in critical times, to give priority to Government bills, but it is not bound to do so. It quite often happens that a Government bill and several private members' bills all dealing with the same subject are referred to a committee at the same time. In such a case, the committee will usually take the Government bill as the basis for discussion; it may then decide not to consider the private members' bills at all, or it may embody one or more of them in the Government bill.

Finally, it should be emphasized that when a bill comes up for discussion in the chamber, the Assembly has before it the text, not as originally presented, but as re-drafted by the Main Committee (though, of course, the two versions may be identical). The subject of a legislative debate in the chamber is, in fact, technically the report of the Main Committee, embodying the bill in the form proposed by that body.

2. *Proceedings in the Main Committee*

A committee's first step, after it has received a bill, is usually

to appoint a Reporter (*Rapporteur*). This it must normally do within a fortnight of the distribution of the bill to Deputies.¹ The Reporter studies the bill, and presents his conclusions to the committee in the form of a report. The General Discussion of the bill in committee will begin with the consideration of this report. It is at the conclusion of this stage that the committee can decide not to take the bill into consideration. Thereafter the procedure is much the same as that of the Assembly, which is described below—the General Discussion being followed by Discussion of Clauses, after which there is a short debate and a Vote on the Whole Bill in the form it has by then taken.

It then only remains for a report to be presented to the Assembly. This will generally contain a Statement of Intentions, the text of the bill as it has been agreed on by the committee, and any comments the committee see fit to make. The committee may itself examine this report, but often leaves it to the Reporter to draw it up and present it, trusting him to embody in it fairly the views of the committee. Any amendment to the bill which a Deputy has presented before the distribution of the report, with the intention of moving it in the Assembly, must be published as an annex to it, with a note as to the Committee's views and action upon it.²

The Deputy who was originally appointed to make the preliminary report before the Committee usually presents the committee's report to the Assembly. But it may happen that the Reporter finds himself in disagreement with the majority of the Committee, and resigns, leaving them free to appoint another.

In the case of a Government bill, the Minister who presented it, and whose department was responsible for its drafting, is invariably heard by the committee if he so wishes, in fulfilment of his constitutional right.³ He has, however, no right to propose amendments, either at this stage or in the Assembly—a surprising state of affairs to those familiar with legislation in the British Parliament, and one about which more will be said below. A private Deputy has also the right to attend a committee when it is considering the text of his bill, but must withdraw when a vote is taken. It may happen, however, that he is himself a member of the committee, in which case nothing

¹ S O 29

² G I XII

³ Const. art. 53, and S O 26. It is not unknown for a committee to report a Bill without having heard any Minister cf. V R 3rd June, 1948, p. 3156¹.

prevents him being appointed Reporter of his own bill. It has also happened that an ex-Minister has been made Reporter of a Government bill which he had introduced himself while still in office.

The Main Committee on a bill may always refer it to the Economic Council or to the Assembly of the French Union for the opinion (*pour avis*) of one or the other.¹ In the former case, the President and Reporter may attend the meetings of the committee of the Economic Council which considers the bill.² In either case, the body concerned is entitled to have its opinion put by its own Reporter before the Committee of the National Assembly, as also is the Economic Council in the case of bills which it decides to consider of its own right.³

3 Advisory Committees

Any General Committee which considers itself competent to make an Advisory Report on a bill, or part of a bill, may do so, if it receives permission from the Assembly, as has been described in Chapter VII.

The Advisory Report may be printed, but can be made verbally, except in the case of a bill to be proceeded with "without Debate". The fact that an Advisory Report has not yet been printed or distributed need not delay the considération in the Assembly of a bill reported by the Main Committee.⁴

4. Reporting of Bills

A committee must report a bill within three months from its distribution to Deputies. In certain special cases, or if the Assembly so decides, the period is shorter. The report must normally be in writing. Its presentation is made to the President of the Assembly who is recorded in the Verbatim Report (by what is actually a "book entry") as announcing its receipt, printing under an allotted number and distribution to members. If it is considered important that the remaining stages of the bill should start as soon as possible, the report is published in the Official Journal, in which form it will be available sooner than as a separate publication.⁵ Once a bill has been reported, the Committee Stage may be said to be finished, though the

¹ S O 29.

² Organic Law No. 46—2384, art 9 (2).

³ Ib. art. 3, S O 28 and 29.

⁴ S O 27.

⁵ S O 29.

function of the committee in relation to the bill are by no means completed.

IV. PROCEEDINGS IN THE ASSEMBLY (NORMAL PROCEDURE)

1. *The Initiation of Debate*

Once the report has been published, a date may be fixed for the beginning of the proceedings on the bill in the Assembly itself. Usually the matter is brought up at the weekly Conference of Presidents, either by a Minister in charge of a bill or by the President of a Committee. The Conference enters the bill on the Orders of the Day for the date decided upon. If a committee has not reported a bill within three months, the Government, or any fifty Deputies making a written request, may propose to the Assembly that the bill be entered on the Orders of the Day, the proposal is subject to a vote, following a short debate, restricted under the same rules as apply to that on a proposal for Urgent Discussion.¹

Proceedings in the Assembly cannot begin until twenty-four hours after the publication of the report (except in the case of an Urgent Discussion). If the Assembly adjourns at any time before the completion of such proceedings, they are automatically put down as the first order for the next sitting, unless the committee concerned asks for a delay.²

2. *The General Discussion*³

The first stage in the proceedings in the Assembly is the General Discussion of the report—generally referred to as the General Discussion of the bill, or simply as the General Discussion (*la Discussion générale*). This is invariably opened, not by the Minister or Deputy who presented the bill, but by the Reporter, who explains the views of the committee to the Assembly, more or less in the terms of the written report. He will be followed by the Reporter of an Advisory Committee, if there is one. The Minister or Deputy who presented the bill will speak at some time during the debate. In the case of a private member's bill, the Minister most closely concerned may speak, but will not necessarily do so. The President of the Main Committee often intervenes, but by no means always.

¹ S O 35

² S O 55

³ The general procedure on a bill in the Assembly, at all stages, is laid down in S O 57

Apart from these specially interested speakers, the debate is open to the whole Assembly. How long it will last depends naturally on the importance of the bill. A short non-controversial bill may go through all its stages in the Assembly in an hour or two, while in the case of a long and controversial one, the General Discussion alone may last several days.

The opening of the General Discussion is sometimes delayed by the moving of a Preliminary Motion (*motion préjudicelle*), or of several such Motions. On 10th August, 1947, for example, the General Discussion on the "Bill providing for an Organic Statute for Algeria" was preceded by the debating of three such Motions—the Previous Question, a Motion for the Adjournment of the Debate (till a date after a certain party meeting had been held) and a Motion for the reference of the bill to an Advisory Committee. All three were defeated. Had the first been carried, the bill would have been lost; the effect of the other two would have been simply to postpone its consideration.¹ The General Discussion must also be preceded by the reading of an Advisory Report from the Economic Council (either by the Council's Reporter, or by the Reporter of the Main Committee of the Assembly), if one has been presented.

At the conclusion of the General Discussion (after pronouncement of the Closure if necessary), the President consults the Assembly on the question of "Proceeding to the Discussion of the Clauses" (*le passage à la discussion des articles*). This stage is often simply called the stage of "Proceeding to the Clauses" (*le passage aux articles*). Technically, the clauses referred to are those of the report, but in practice, it is those of the bill as set out by the committee which will or will not, be the subject of consideration. The decision of this question is a decision on the principle of the bill, and corresponds to the decision on the question for Second Reading in British procedure. If it is decided in the negative, the bill is lost. If the committee has simply reported the original text of the bill without comment, the question for the Assembly to decide is whether or not to consider the clauses of that text.

When the Committee has reported in favour of the rejection of the bill, the General Debate ends with a vote on the acceptance of the report by the Assembly. If the report is accepted, the bill is rejected. If the report itself is rejected, no further action will necessarily be taken, but in all probability there will be a demand for the bill to be returned to the committee for

¹ For the rules concerning Preliminary Motions, see Chapter VI, Part I (2).

fresh consideration. If the Committee itself asks for this, it must be done.¹

The Reference Back (*le renvoi*) of a bill to the Main Committee may, in fact, be asked for at any time during the proceedings in the chamber. When asked for by the Main Committee itself, Reference Back is automatically agreed to. The Assembly may, if it wishes, at the same time fix the date at which a bill "referred back" shall be again considered in the chamber, or may leave it to the committee to do this.²

3. *The Discussion of the Clauses*

When the Assembly has decided to proceed to the consideration of the clauses, its next task is to go through the bill clause by clause. As each clause comes up, the President reads the text. If no amendments have been presented, and no Deputy offers to speak, he declares it adopted, and proceeds to the next clause. If the clause is opposed, or a Deputy wants an explanation, there will be a debate, leading perhaps to a vote for and against the adoption of the clause; and if its adoption is defeated, the clause is removed from the bill. If an amendment has been presented, its discussion must take place before that of the clause in the Committee's text.³ A schedule is usually considered as soon as the clause which governs it is reached, the debate on the clause itself being formally postponed until the schedule has been voted upon.

4. *Amendments*

Amendments which Deputies wish to move in the Assembly must be presented in writing, in theory by being laid upon the Table. They may be accompanied by a brief explanatory statement. If there is time they are referred to the Main Committee on the bill (which must report its views and actions on them in an annex to the report), and are printed and distributed; but failure to have them previously printed and distributed does not prevent them being discussed in the Assembly.⁴ If an amendment is presented too late to be

¹ See proceedings on 10th September, 1946, on the (private member's) bill "with the object of making the electoral law subject to approval by referendum". There was actually a tie in the vote on the question of accepting the report and the report was therefore declared not to have been accepted. A Vice-President of the Main Committee then asked for the bill to be referred back, his request being granted "as of right".

² S O 47

³ S O 71

⁴ S O 70

mentioned in the Main Report, the committee may have time to make a supplementary report upon it. It is sometimes permitted to make such a report orally. Though strictly contrary to the Standing Orders, it is not unusual for amendments to be modified verbally in the course of discussion¹.

When presented, an amendment must be signed by its mover. It does not need to be seconded. Unless it is actually moved in the Assembly at the appropriate moment, it is not discussed, but if its original proposer is not prepared to support it, or is absent, it may be moved by another Deputy. Similarly, though a Deputy can withdraw an amendment which he has proposed, at any time before it is voted upon, another Deputy can always take it up.

The Government, as has already been mentioned, has no right to propose an amendment to its original text (though in practice it may arrange for a private Deputy to do so). It has, however, the right to demand that the original text of the whole or part of a Government bill, which has been modified by the committee, be taken into consideration before any amendments to the bill or passage concerned. On the other hand, amendments which have been accepted by the committee must be discussed before any other amendments proposed to the same part of the bill. The Government may, and from time to time does, make drafting modifications to its original text after presentation, informing the Assembly of such an alteration in a Letter of Rectification (*une lettre rectificative*).

The Reference Back (*le renvoi*) to the Main Committee, or the Reservation (*la réserve*), i.e., the postponement of consideration, of a clause or of an amendment may be asked for at any time, and when asked for by the Main Committee is automatically agreed to. Any Deputy is also always entitled to propose the more drastic procedure of the Separation (*la disjonction*) of an amendment. When this procedure is adopted, the amendment is referred back to the Main Committee where it is treated as if it were a separate private member's bill,² the committee having three months in which to report upon it.³

A special form of amendment is the Counter-Bill (*contre-projet*), which consists of an alternative text to the whole bill. It is virtually a rival bill, but presented in the form of an amendment. The Assembly must first vote as to whether it

¹ See the deprecatory description of this practice (from the official point of view) in Picard, § 707.

² S.O. 48.

³ S.O. 35.

shall be taken into consideration. If this is agreed to, the Counter-Bill is referred to the committee, and reported upon. Thereafter (if it is further considered) it is treated as a series of amendments, each clause being considered in relation to the relevant clause in the original bill¹

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An amendment must be relevant to the text to which it refers, or, if it is in the form of a Counter-Bill or an Additional Clause (*article additionel*), to the principle of the bill. Any dispute as to relevancy must be decided by the Assembly.² An amendment which takes up again the substance of a proposal already rejected is out of order, but this rule is interpreted liberally.³ The restriction on amendments relating to finance is described in Chapter IX.

The President of the Assembly has no power to select which amendments he will call, as has, in such a wide measure, the Chairman in Committee of the whole House, or³ the Speaker at the Report Stage, in the House of Commons. The idea that the President should enjoy such wide powers over his fellow Deputies, or that the initiative of individual Deputies should be so restricted, is contrary to the French conception of parliamentary procedure. The effects of such powers are, in fact, achieved by what the French would consider a more democratic method—by the preliminary work in committee where all amendments can be sifted in advance. This is followed up by a limitation on the length of discussion in the Assembly on any single amendment, debate being limited to one of the signatories of the amendment, one member of the Government, the President or the Reporter of the Main Committee and one opposer of the amendment.⁴ As a result, the debate on a bill in the Assembly is not in practice normally encumbered with an excessive number of amendments.

Occasionally, however, when a number of different amendments of similar affect and related to the same part of the bill have been put down, the Assembly has by general agreement held a single discussion covering all the amendments (the mover of each having an opportunity to speak). A recent example of such procedure occurred on 1st November, 1948. In this case a whole series of groups of amendments were successively treated in this way. A single vote was held for each group, on the question of the Taking into Consideration (*la prise en considération*) of all the amendments in that group. This

¹ S O 72

² S O 70

³ Pierre, § 701

⁴ S O 71

was defeated on each occasion, the Government putting the Question of Confidence in many cases¹. On other rare occasions, also, the Government has, as described in Chapter VI, taken the more extreme course of asking the Chamber to vote *en bloc* on all the amendments proposed to a bill.

In the course of considering the clauses of a bill, the Assembly may refer amendments back to the committee. It will then have to await a supplementary report, and possibly to adjourn the debate while so doing. Not until all the clauses have been voted upon, and all amendments finally disposed of, is the Discussion of the Clauses finished.

It is sometimes found desirable, as the result of amendments which have been made, to modify the title of a bill. In such a case the modified title is submitted to the Assembly after it has voted on the last clause and before it proceeds to the Vote on the Whole Bill.

5. *Second Deliberation. Reference Back to Committee for Revision and Co-ordination*²

At this point the Assembly may decide either to hold a Second Deliberation on the bill, or to refer it back to the committee for revision and co-ordination. If the Committee request or accept either procedure, it must be followed. Neither is frequently used.

If a Second Deliberation is decided upon, the text of the bill, as adopted by the Assembly, is sent back to the committee, which considers it and reports upon it. On consideration in the Chamber on Second Deliberation, the Assembly can only discuss any alterations made by the committee.

When a bill has been referred back to the committee for revision and co-ordination, the committee re-examines the text from the point of view of its drafting and general coherence, and reports it with any revisions which it decides to recommend. Further discussion in the Assembly must be confined to these revisions.

6. *The Vote on the Whole Bill*

The final stage, before the bill leaves the Assembly, is the Vote on the Whole Bill (*le Vote sur l'ensemble*). Once this has begun, no further amendments may be proposed.³ If the bill

¹ V R , 3rd January, 1948 (2nd sitting), item 3

² S O 58

³ Pierre, § 700

has only one clause, the vote on that clause is also considered to be the Vote on the Whole Bill, and no further proceedings are permitted. The proposal of an Additional Clause to such a bill must be made in the form of an amendment to the single clause of the bill as reported.

The debate on this stage is considerably more restricted than at the corresponding British stage, the Third Reading. Speakers may only make general comments on the bill as a whole in its final text, and may speak for only five minutes each. It is not often that a Vote by Open Ballot is claimed.

7. *Transmission of Bills to the Council of the Republic and Proceedings on their Return*

Once the Vote on the Whole Bill has taken place, the bill is said to have been adopted by the Assembly "on first reading" (*en première lecture*). A copy, signed by the Secretary-General of the National Assembly, is at once sent to the Council of the Republic. An official text, certified by the signature of the President and the seal of the Assembly, is sent later. The bill is reprinted and distributed to members of both Chambers.¹

The proceedings of the Council are subjected to the provisions of Article 20 of the Constitution, and are described in Chapter XI. The Council must make its Advisory Report (*avis*) within two months. If it does not do so, or if it makes an Advisory Report in agreement with the text voted by the Assembly (known as *un avis conforme*), the bill is sent by the President of the Assembly to the Government, for promulgation as law in this text.

The Advisory Report from the Council is sent by its President to the President of the Assembly. If it is not in agreement with the text voted by the Assembly, the President announces its reception, orders its printing and distribution, and refers it to the original committee on the bill. The Committee makes a report and the bill is discussed "on Second Reading" (*en seconde lecture*). The Assembly "decides definitely and in full sovereignty on the amendments proposed by the Council of the Republic, accepting or rejecting them in whole or in part". If the Assembly rejects any of the Council's amendments to a bill, the whole of which was voted by an absolute majority of the Council in a Vote by Open Ballot, the Vote on the Whole Bill at the end of the Second Reading must also be held by Open Ballot, and is not valid unless carried by an absolute

¹ S O 86 and G I XVII

majority of the Assembly¹. The Council, of course, has no further say in the matter, and once the Assembly has concluded its Second Reading, the bill is at once sent to the Government for promulgation.

On 31st December 1948, the Council, after proposing amendments to a bill, rejected the whole text at the Vote on the Whole Bill. Such a case, though allowed for in the Standing Orders of the Council, appeared not to be clearly covered by Article 20 of the Constitution. The Assembly, on the proposal of the Finance Committee, treated the rejection as if it were a single all-embracing amendment, and voted to re-establish the text of the bill as it had originally left the First Chamber. Thus the detailed amendments proposed by the Council were never even discussed by the Assembly.

V. SPECIAL FORMS OF PROCEDURE

1. *Urgent Discussion*²

(1) General Nature of the Procedure

The Assembly is capable under its normal procedure of passing bills at great speed, and indeed the manner of proceeding in the chamber itself is a generally satisfactory one. Long delays can, nevertheless, occur, either because the Main Committee neglects or refuses to report a bill, or because a Deputy is unable to get it put on the Orders of the Day. A Government which could not get its bills through would eventually have to resign. A private Deputy in the same difficulty might well feel that a bill, which would have a good chance of being passed if it ever reached the Orders of the Day, was being held up simply because the members of the committee or of the Conference of Presidents were not interested in it. In both cases, there is clearly room for some method of bringing matters to a head, and reaching a decision in the chamber for or against the bill. To meet this need, provision for Urgent Discussion (*discussion d'urgence*) or Immediate Discussion (*discussion immédiate*) was made in the rules of the Chamber of Deputies from the early days of the Third Republic. The procedure underwent several changes, and the Standing Orders drawn up in the first session of the present National Assembly differed in a number of details, though not in principle, from those which had been in force in 1940. They were elaborately

¹ Const., art. 20 repeated in S O 59. See also Addendum, part 1.

² S O 61 to 67. Recent changes are summarised in the Addendum.

drafted to cover all contingencies. They did not, however, prove satisfactory when the Assembly was confronted in its first eighteen months with a far greater number of requests for such procedure than it could conveniently deal with. The principal Standing Orders concerned (Nos. 61 to 64) were therefore entirely revised, by Resolution No. 1425 of 9th December, 1948.

The procedure of Urgent Discussion, as it is now termed, imparts urgency in that, once it has been adopted, the proceedings to which it is applied must be begun as soon as possible (with certain provisos) and must be continued until completed, all other debates standing adjourned in the meanwhile, no matter what Orders of the Day have been previously fixed. The procedure was originally instituted at least as much for the benefit of the private Deputy as for that of the Government. Its value to the former lay, before the recent changes, to a considerable extent in the provisions that a request (*demande*) for it could be made at any time by the Main Committee on a bill or by any fifty Deputies. As explained in Chapter VII, it is by no means rare for members of minority parties to carry a vote in committee, through the indifference of the Government or the absence of some of their supporters, while, if this was not achieved, the gathering of fifty signatures would not be very difficult, especially since the signatories were only committed to the request for Urgent Discussion, and not to the principle of the bill. Any such request was automatically submitted to discussion and decision by the Assembly. The debate was confined to the question of urgency, the subject matter of the bill being out of order, but in practise this rule, like others concerning relevancy, was not strictly enforced. Thus the procedure of presenting a request for Urgent Discussion provided a device by which members of minority parties could secure a short debate which, though the bill in question might be certain to be defeated, could provide a very useful political occasion, as well as taking up time.

It was, in part, the alleged misuse of this facility by members of the minority which in 1948 led, after several temporary expedients, to the drawing up of the present rules. In the debate on these, members of the minority argued that the fault lay not with them but with the Government which had abused the procedure by too frequent use of it. Whoever may have been mainly to blame there is no doubt, and it was generally agreed, that Urgent Discussion was being asked for far too often, and that in consequence the programme of the Assembly

was constantly being disturbed and its work obstructed. The basic reason for this lay in the great quantity of legislation which, as was only to be expected in such a period, both the Government and private Deputies had sought to bring before the Assembly. It began to seem as if no controversial bill had any chance even of being discussed unless proceeded with as a matter of urgency. As the Reporter of the Committee on the Franchise, the Standing Orders and Petitions (Madame Germaine Peyroles) said, in introducing the proposed new rules, "The procedure of Urgent Discussion, which ought to have remained an exceptional procedure, has, as a result of the increase in our parliamentary work, become the normal procedure. The ordinary procedure can no longer operate; a question is now only debated by our Assembly if the procedure of urgency is applied."¹

The new rules in appearance limit the extent to which both the Government and private Deputies may have recourse to Urgent Discussion, but in fact they place a greater check on the latter than on the former. Indeed, they have undoubtedly brought into this branch of procedure an element of assistance to the Government which was not there before. Whether any Government will ever be in a position to make full use of this assistance is yet to be seen.

(ii) Initiation of the Procedure

The initiation of Urgent Discussion begins with the presentation to the President of a request (*demande*) for it. This presentation may either accompany that of the bill itself or be made later. Under the new rules the receipt of such a request may only be announced to the Assembly at the beginning of the first sitting on any day, whereas formerly it had to be announced as soon as made, other business being if necessary interrupted for the purpose. Moreover, whereas formerly the Government, the Main Committee and the proposer of a private member's bill had the same rights in this respect, in the case of any bill, now the sphere of each is restricted. In the case of Government bill, the Prime Minister alone may present a request. He must put it in the form of a letter to the President of the Assembly, in which he must state that the decision to ask for Urgent Discussion was come to after consideration in cabinet. In the case of a private member's bill, once it has been reported only the Main Committee can present a request, not earlier than

¹ V R., 9th December, 1948 1st sitting, p. 722

twenty-four hours after the distribution of the report. In order to do so it must make a special decision, at a Vote by Ballot, and by a majority of its total membership. The fulfilment of these conditions must be certified by its President when presenting the request. The only rights left to the private Deputy are that the proposer or first signatory of a private member's bill may present a request in the case of such a bill before it has been reported. As soon as the receipt of such a request has been announced to the Assembly, it must also be communicated, as necessary, to the Prime Minister, the relevant committee, the presidents of the political groups and the Council of the Republic, and notices of it must be posted in the lobbies.

Within three clear days of the distribution of the bill concerned or of the presentation of the request (whichever be the later) both the Government, through the Prime Minister, and the Main Committee must communicate to the President of the Assembly their opinion (*avis*) as to whether the granting of Urgent Discussion is desirable. In the case of a Government bill, the Government's opinion will have already been expressed, since the request must have originated with it. If the Government oppose the request in the case of a private member's bill, its reasons for so doing must be summarily set out. The committee must hold a vote on its decision, which is not valid unless supported by a majority of its total membership. If it opposes the request, the views of any members who voted in the minority must be set out by them in summary form, and included in the report. If after three clear days either the Government or the committee has not communicated its opinion, its silence is taken to imply agreement to the request.

If both the Government, through the Prime Minister, and the committee expressly agree to the request within the three clear days, Urgent Discussion is granted without further discussion. It is also so granted when each body implies its tacit consent by failing to communicate its advice within the three clear days, or when one of them does so expressly and the other by implication. Consideration of the bill itself may then take place. In the case of express consent by both Government and committee, it may begin either on the same day or at the start of the first sitting on the next, provided that the committee either has had its report distributed, or is ready to report verbally. If the Committee is not in such a position and in a case involving tacit consent, the discussion of the bill is entered at the head of the Orders of the Day for the first sitting day.

following, if the three clear days expire during a sitting day, or for the second sitting day following if they expire at any other time. If, at the moment when the Discussion should begin, the committee has still not had its report distributed, and is not prepared to report verbally, it may be given a further period of eight clear days by the Assembly. At the end of this or on the distribution of the report if that occurs sooner, the Discussion is entered at the head of the Orders of the Day on the next sitting day. If, when that is reached, there is still no report before the Assembly, no General Discussion is held, the Assembly being called upon to vote at once on the question of Proceeding to the Consideration of the Clauses.

If both the Government and the Committee oppose the request for Urgent Discussion, it is automatically rejected without any further submission either to discussion or to vote in the Assembly. The reasons of the Government and those of the committee for taking such a decision must be notified to the mover of the bill (which, naturally, would in those circumstances be a private member's bill), and appended to the next number of the Verbatim Report. A request cannot again be made in respect of the same bill for one month. This is a further tightening of the procedure, since under the former rules a request, if rejected by the Assembly, could be presented again so soon as the following sitting.

If the Government and the Committee express different opinions, either explicitly or tacitly in either case, the President must at once announce the fact to the Assembly, and inform the maker of the request (whether the Prime Minister or a private Deputy). The arguments of the body which opposes the request must be appended to the Verbatim Report. The maker of the request (that is, the Government, the committee, or a private Deputy) has then the right to appeal to the arbitration (*arbitrage*) of the Assembly. If he be a private Deputy his appeal must be backed by the signatures of fifty Deputies. The right lapses, unless exercised before the end of the first sitting day following the announcement of the difference of opinion.

When this right is exercised, then, and then only, is a request for Urgent Discussion submitted for debating and decision by the Assembly itself. It is entered at the head of the Orders of the Day of the first sitting day following. A short debate then takes place, after the presence of the fifty signatories have been ascertained in the case of request made by a private Deputy. This debate must, according to the letter of the Standing Order, be confined to the question of urgency, and only the

maker of the request, one speaker opposed to it, a member of the Government and the President or Reporter of the Main Committee may take part. These conditions are the same as were applied to all debates on such requests under the former rules. A new restriction limits each speaker to five minutes. If the Assembly agrees to the request, it may proceed at once to discuss the bill on a verbal report (if the committee is ready to make one) or enter the Discussion at the head of the Orders of the Day on the next sitting. In the second case, if the committee has not distributed its report by the beginning of the next sitting, and is not ready to report verbally, it may be given a further period of not more than two clear days in which to do so. Procedure thereafter is the same as when the committee has been granted an additional period in the case of an agreed request. If the Assembly rejects a request, a fresh request cannot be made in respect of the same bill for one month thereafter.

(iii) The Urgent Discussion Itself

Once an Urgent Discussion has been begun, it must be continued till finished. It has priority over any other matter under discussion or on the Orders of the Day, and cannot itself be interrupted. Under a recent rule,¹ if the Vote on the Whole Bill has not been held by the end of three clear days from the beginning of the discussion, or from the acceptance of the request if this was subjected to the vote of the Assembly, the state of Urgency lapses, and the Discussion becomes subject to the ordinary procedure. This time limit may, however, be prolonged by the Assembly on the proposal of a Deputy, the Main Committee, or the Government.

The Discussion follows the same course as under the normal procedure with the exception, already noted, that if it is begun without any report, written or verbal, being before the Assembly, the latter proceeds at once to the Vote on Proceeding to the Discussion of Clauses. In the course of it, reference back to the Main Committee can be requested and ordered under the same rules as in a normal debate (under which the committee must make their supplementary report before the end of the debate). The procedures of Second Deliberation and

¹ This was originally added to the Standing Orders by Resolution No 1048 of 22nd June, 1948, as a result of the dispute between the Chambers described in Chapter XI. It was continued in force, with a small addition, as Standing Order 64 by the Resolution of 9th December 1948.

Reference back to the Committee for Revision and Co-ordination may also be used, under the normal rules.

In practice, the principle that an Urgent Discussion should not be interrupted has not always been strictly observed. The Assembly, which, here as in all circumstances, retains control of its own Orders of the Day, has sometimes found it convenient to adjourn an Urgent Discussion, while considering some other matter of even greater urgency, or related to the original urgent proceedings. In the sitting of 29th November, 1947 (referred to in Chapter VI), for example, an Urgent Discussion on a bill was interrupted by an Urgent Discussion on a Proposal for a Resolution to amend the Standing Orders (in a way which would facilitate the progress of the bill). On 5th December, 1947, again, the Assembly, after hearing that the Government agreed with the proposed course of proceedings, decided to interrupt an Urgent Discussion on a bill (at the conclusion of the General Discussion) in order to hold an immediate debate upon an Interpellation (concerning disturbances which had occurred on the preceding day).

(iv) Urgent Discussion on Second Reading¹

When a bill which was the subject of an Urgent Discussion at its First Reading is returned from the Council with aménements, it automatically receives its Second Reading also under the conditions of Urgent Discussion. In such a case the Advisory Report of the Council must at once be printed and distributed, and referred to the committee to which the bill was referred on First Reading. From the time of the distribution of the Advisory Report, the committee has eight clear days in which to distribute its own report. As soon as it has done this it may, if the Assembly is then sitting, ask for the Discussion to take place the same day. The Discussion must then be held at the end of the sitting then in progress, provided that an announcement of it has been made to the Assembly, posted in the lobbies, and communicated to the Prime Minister and the presidents of the political groups at least one hour beforehand. If the committee does not ask for the discussion to take place the same day, it is entered at the head of the

¹ See S.O. 66 bis. In the Standing Orders as originally passed, no mention was made of the procedure to be followed on the Second Reading of a bill which had received its First Reading in an Urgent Discussion. It was therefore necessary to make a fresh request before the Second Reading, if Urgent Discussion was desired at that stage. The opportunity was taken to add the present rules in the Resolution of 9th December, 1948, already referred to.

Orders of the Day of the first sitting day after the publication of the report.

Urgent Discussions may also be asked for on Second Reading of a bill, even when such a Discussion was not held on First Reading. In such a case a request must be made under the same conditions as on First Reading.

The effects of the adoption of Urgent Discussion by the Assembly upon the proceedings on the bill concerned in the Council of the Republic, and the relations between the proceedings in the two chambers, are described in Chapter XI. The use by the Council of its own independent procedure of Immediate Discussion (see Chapter XI) has no effect on the proceedings of the Assembly on Second Reading of the bill concerned.

(v) Urgent Discussion on Bills to be considered by the Economic Council¹

The new rules have not affected the conditions previously laid down to cover the case of an Urgent Discussion on a bill within the competence of the Economic Council. The granting of Urgent Discussion on such a bill is equivalent to a declaration of urgency to the Council, which is at once informed and must, under the Organic Act, make its Advisory Report within two days.² This report is referred to the Main Committee in the Assembly, and on the first sitting day after its distribution the Discussion is put down by right, at the head of the Orders of the Day, unless the committee announces that it will have fresh conclusions to report but is not yet ready to do so. In this case the committee has three clear days in which to publish its report, and the Discussion is put down by right at the head of the Orders of the Day on the first sitting day after the publication of the report.

(vi) Summary: General Effect of the new Rules

An Urgent Discussion on a bill can thus be begun as early as one hour after notices of the request for it have been posted, though never before copies of the bill itself, on First Reading, or of the Advisory Report on Second Reading, have been distributed to Deputies.³ Its start can, on the other hand, be delayed for up to eleven days. Of the three parties who may ask

¹ S O 65

² Law No 46—2384, art 2 (2). See also S O 20

³ S O 63 and 66 bis

for the procedure—the Government, the committee and the private Deputy—the Government is, without doubt, potentially in the strongest position. If it wants an Urgent Discussion on a bill of its own, it need only obtain the agreement of the committee to have its request accepted without further question. Here the rule that the committee can only validly oppose a request if an absolute majority of its members vote against it should work in the Government's favour. For if the Government is defeated in committee, either through the absence or the abstention of some of its supporters, the vote will in all probability not be valid. Again, the Government needs only the agreement of the committee to prevent the granting of Urgent Discussion on a private member's bill, and to stop any further request being made in regard to the same bill for a month. Here its position in committee will not be so strong, since it must make certain of its absolute majority. In either case, if defeated in committee, it can appeal to the Assembly, where it is unlikely to be defeated on an important matter unless its position is already perilously weak. The committee, for its part, can only put forward a request for Urgent Discussion on its own behalf, or oppose one put forward by the Government on a private Deputy, through a vote carried by an absolute majority—to achieve which result it would almost certainly need the votes of supporters of the Government. Finally, the private Deputy, though he can always present a request and may conceivably have it accepted, can take no further action himself except in the case of disagreement between the Government and the committee. Only then does he enjoy the right, which he formerly possessed without restriction, of arguing his case for Urgent Discussion before the Assembly.

On the other hand it must be remembered that the potential advantages which the new procedure offers to the Government can only be fully realised if the Government is strong enough to press them home. If it is weak, it will generally be prepared to be overruled on matters which it does not consider of the highest importance. In practice, since the new rules were introduced, the Government has been one which, as so often under the Third Republic, depended for its majority on an insecure combination of parties, and has accepted defeat on questions of Urgent Discussion both in committee and in the chamber. Nevertheless the main purpose of the new rules—to prevent the constant abuse of the procedure of Urgent Discussion—does to some extent seem to have been achieved.

2. Voting Without Debate

The Assembly can deal expeditiously with simple and uncontroversial bills, and save its own time in the process, by the special form of procedure known as Voting without Debate (*le vote sans débat*). When this is used, all effective examination of the bill is left to the committee, and the Assembly simply votes upon the committee's text. Such procedure shows the system of preliminary examination of bills by expert committees carried to its logical extreme. Its abuse is, however, carefully guarded against by the Standing Orders. Bills may occasionally slip through without debate simply because no Deputy has noticed that they are on the Orders of the Day; but on the whole the procedure is a useful one, and enables the Assembly to pass generally agreed legislation, whether Government or private members' bills, without arousing the problem of finding more time in a crowded programme.

The right to initiate the procedure "without Debate" is confined to the Government and to the Main Committee on the bill. A written request for it must be made to the President of the Assembly. The Conference of Presidents considers this at its next meeting, and puts the bill down at the head of the Orders of the Day for the third sitting day after that on which the decisions of the Conference are announced, provided that all reports concerning the bill have been distributed, if the Main or any Advisory Report have still to be distributed, the bill cannot be put down before the third sitting day after this has been done.¹ The entering of a bill upon the Orders of the Day for Voting without Debate is known as *inscription sous réserve qu'il n'y aura pas de débat*, or colloquially "*sous réserve que pas débat*".

The Government can always prevent even this first step, simply by declaring its opposition. Once a bill has been put down for Voting without Debate, the Government can have it withdrawn from the Orders of the Day as can any other Deputy on presentation of a written declaration of opposition for the purpose of making observations or moving amendments. The opposition (which is later published in the Official Journal) is announced by the President immediately after he has read the Orders of the Day for voting the bill "without debate". The bill is then referred back to the committee, which must hear the views of the Government and any other opponents

¹ S O 36

and make a supplementary report noting the objections which have been advanced.¹ If the opposition is withdrawn during the same sitting, or before the supplementary report has been presented, the committee must be informed and the bill can then be put down for Voting without Debate on the second sitting day following. It can only be withdrawn again at the request of the Government or of fifty Deputies. After a second withdrawal, a bill cannot again be put down for Voting without Debate.²

When there is no opposition, the President puts formally the same questions as he would have put under the normal procedure—that is to say, first on Proceeding to Clauses, then on each clause separately, and finally on the Whole Bill.

The following figures, covering the period from 28th November, 1946, to 6th January, 1948, inclusive, will illustrate the extent to which the procedure of Voting without Debate is used.

	Government Bills	Private Members' Bills	Total
Number entered on Orders of the Day for procedure "without Debate".	90	48	138
Number of these withdrawn from Orders of the Day as result of opposition	9	15	24
Number of these passed "without Debate" on First Reading	81	33	114
Total number of Bills passed into law by all forms of procedure during period	207	66	273

3. Special Forms of Procedure Applicable to Certain Types of Bill

Bills ratifying Treaties—Under the Constitution,³ certain kinds of treaty remain provisional until ratified by an act. A bill for the ratification of a treaty contains clauses laying down the means and conditions of ratification, with the text of the treaty itself annexed as a whole. This text itself is not voted on article by article and no amendment to it may be moved. A

¹ S.O.37

² S.O.38.

⁴ Art. 27

Deputy who objects to the text of the treaty, or to any part of it, can only show his opposition by moving to refer the words in question back to the committee. The latter must make its report on the contested passage in the form of a recommendation of action on the whole bill—the possible forms of action being adoption, rejection or adjournment. This report must be presented at the end of the debate on the unopposed portions of the bill. A recommendation to adjourn discussion of a bill must be made in the form of a reasoned motion, in the following terms “The Assembly, calling the attention of the Government once more to clause of the treaty (..) defers authorising its ratification.”¹

Revision of the Constitution; Financial Bills.—The legislative process which must be used in the case of a proposal to revise the Constitution is described in Chapter II. The special rules applicable to financial bills and to financial measures contained in ordinary bills are given in Chapter IX.

VI. PROMULGATION AND FRESH DELIBERATION²

i. Promulgation

The final proceeding upon every bill finally adopted by the Assembly is its Promulgation as an act (*loi*). This is, in normal circumstances, a constitutional function of the President of the Republic. The formula of promulgation by which every act must be opened and closed has been laid down by administrative decree.³ At the beginning of an act appears the following sentence:

“The National Assembly and the Council of the Republic have discussed,

“The National Assembly has adopted,⁴

“The President of the Republic promulgates the Act, the contents of which is here set out.”

The text of the clauses is then given and is followed by the traditional sentence “The present Act shall be executed as Law” (“*La présente loi sera exécutée comme loi de l'Etat*”), and a record of the place and date of promulgation. It is signed by

¹ S O 69

² Const., art 36

³ Decree No 47-237, of 31st January, 1947

⁴ Under the Third Republic, when both Chambers had not only consultative but a decisive voice on legislation, the formula opened with the single sentence “The Senate and the Chamber of Deputies have adopted ” For the history of the formula of promulgation from 1789 to 1875 see Pierre, § 507

the President of the Republic and countersigned by the Prime Minister and at least one other minister. Usually all ministers who have a direct connection with the implementation of the Act attach their signatures. As soon as possible after signature the promulgation is published in the Official Journal.

The Constitution normally allows the President ten days, after the bill has been sent by the Assembly to the Government, in which to promulgate it. It permits the Assembly to shorten this period to five days, by declaring the case to be one requiring promulgation as a matter of urgency. Any Deputy may propose the making of such a declaration at the end of the final Vote on the Whole Bill (whether or not the Assembly had itself proceeded upon the bill as a matter of urgency).¹

Should the President of the Republic fail to promulgate an act within the period allowed, the Constitution requires the President of the Assembly to provide for promulgation. This provision is taken from the Constitution of the Second Republic. It was not included in the Constitutional Acts of the Third. The omission never gave rise to any difficulty, since on no occasion did the President of the Republic refuse or fail to promulgate an act.² If the necessity for using this provision should arise, the President of the Assembly is empowered to require the director of the Official Journal to publish the text of the act or acts concerned.³

2. Fresh Deliberation

During the period, whether ten or five days, allowed in the case of each bill, the President has the constitutional right to send a reasoned message to Parliament, requesting a Fresh Deliberation (*nouvelle délibération*). Such a request may not be refused. A similar prerogative—a relic of the royal power of veto of the Restored Monarchy—was vested in the Presidents of the Second and Third Republics, but was never exercised. Its inclusion in the present Constitution was only voted by a very small majority.⁴ It has, however, been used twice under the Fourth Republic, not for any political purpose, but on each

¹ S.O.60

² In a very small number of cases an act was promulgated after the expiry of the period allowed by the Constitutional Laws

³ Under clause 6 of Act No. 50-10 of 6th January, 1950, "amending and codifying the law relating to the public powers."

⁴ By 20 votes to 18 in committee and 274 to 265 votes in the Constituent Assembly itself.

occasion as a means of finding a way out of certain procedural and constitutional difficulties.¹

When a message requesting a Fresh Deliberation is received, it must be read to the Assembly by its President. The bill concerned is then referred to the relevant committee, which must report in a period fixed by the Assembly, being not longer than a week.² It is then subjected, in each Chamber, to all the procedure normally applied during First Deliberation.

¹ On the first of these occasions, that of June, 1948 (which is described in Chapter XI), the difficulties arose from divergent interpretations put by the two Chambers upon a passage in the Constitution, and a Fresh Deliberation was asked for by the President at the request of the Constitutional Committee, to which the dispute had been referred. On the second occasion, a combination of circumstances seem to have made a Fresh Deliberation (requested by the President on 13th October, 1949) the only way in which the Council of the Republic could constitutionally be given sufficient time to consider the bill concerned.

² S O 22

Chapter Nine

THE NATIONAL ASSEMBLY AND NATIONAL FINANCE

INTRODUCTION

IN THE present period of general economic crisis, no account of the financial system of any country can be given without the proviso that it may soon become out of date. In the case of France, there is an additional reason for this warning, since the Organic Act which, under Article 16 of the Constitution, is to regulate the manner of presenting the Budget, has yet to reach the stage of public discussion.¹ Nevertheless, the principles of national finance laid down between 1789 and 1940 are firmly fixed in France.² The Fourth Republic has, in the main, taken them as its starting point, and whatever changes it may see will inevitably be judged by reference to them. In this system the power of Parliament, and particularly of the National Assembly, is exercised in two ways—first, through the authorisation of taxation and expenditure, secondly, through the control of authorised expenditure, that is by supervision of the administration of the financial measures which Parliament has enacted.

I THE VOTING OF TAXATION AND EXPENDITURE

1. The Principles of French National Finance

In France, the history of the parliamentary control of national finance begins in 1789. The States-General of the fourteenth to the seventeenth centuries never succeeded in establishing the principle that their consent was necessary before taxes could be levied; and only once (in 1355) did they make any attempt to control the spending of money voted to the King. In practice, from the fifteenth century onwards, the Crown imposed as it

¹ In March, 1950, no proposed text for this act had yet been presented to the Assembly, though some preparatory work had been done in the Finance Committee and elsewhere, in connection with it, and with a further proposed Organic Act concerning the National Accounts.

² The history and nature of these principles were described in detail by Gaston Jeze, in his *Cours élémentaire de Science des Finances et de la Législation Financière Française* (Paris, 1909).

wished taxes which were collected by various arbitrary methods, and completely controlled the finances of the country. During the eighteenth century the royal administration got into ever greater financial difficulties. At the same time men were reading in the works of Montesquieu and others the doctrine that the King had no right to levy taxes without the consent of the representatives of the nation. When at last the States-General were summoned in 1789, the recognition of this principle was demanded in the *cahiers* of the great majority of its members.

The demand was satisfied by the decree of 17th June, 1789
In this it was declared that

“The National Assembly . . . considering that in fact the taxes which are at present being collected in the Kingdom, since they have not in any way been agreed to by the nation, are all illegal . . . - Declares unanimously that it agrees provisionally on behalf of the nation that such duties and taxes, although illegally levied and collected, shall continue to be raised in the same manner as heretofore, this provision to extend only to the first day on which this Assembly shall first separate, from whatever cause that event may arise - After which day, the National Assembly intends and decrees that all raising of duties and taxes of every kind, which have not been specifically, formally and freely granted by the National Assembly, shall cease completely in all the provinces of the Kingdom . . .”

This declaration, the sense of which was later included in the Declaration of Rights,¹ contains the first principle of French national finance—that no tax may be imposed unless sanctioned by law.

The second principle is that the Government may incur no expenditure which has not been sanctioned by law. This principle did not figure among the initial demands of the members of the States-General. It was, however, laid down together with the first principle, in the Constitution of 1791, which delegated to the Legislative Body, among other powers and duties, those “of fixing the public expenses; and of laying down the public taxes and determining their nature, rate and length, and how they are to be collected.”²

Both these principles went into abeyance under the First Empire; but they were firmly re-established at the Restoration-The Charter³ of 1814 laid down that “No tax can be imposed or

¹ Art 14

² Constitution of 1791, Part III, Chapter III, Section I, Art 1

³ Art 48

collected, unless it has been agreed to by both Chambers, and sanctioned by the King". The necessity of parliamentary approval of expenditure was not mentioned in the Charter, but became in a short time established and recognised as a matter of practice. From that time onwards till the end of the Third Republic (and even under the Second Empire) the conduct of French national finances has been subject to parliamentary control in these two ways, and has been profoundly influenced by that fact.¹

From the desire to make this control effective in practice, there emerged a third principle—that a balance of anticipated revenue and expenditure should be drawn up for each financial year, and voted upon by Parliament. This balance is known as the Budget (*le budget*)². In the first year after the Restoration it became the accepted practice for the Government to present the Budget to Parliament annually in the form of a Budget Bill (*projet de budget*) known, when enacted, as the Finance Act (*la loi de finances*)³ for the year concerned. Three conditions came, in the same period, to be associated, as they still are, with this bill. It should be annual; it should be voted before the beginning of the financial year (*l'exercice*), which in France is the calendar year, and it should contain all the financial provisions needed for that year.

The first condition has generally been fulfilled, at least to the letter. Attempts were, indeed, made a little before and a little after the first World War, to introduce biennial budgets, but this practice was not adopted.

The second condition, the voting of the Budget Bill before 1st January of the year to which it applies, was found by no means easy to observe under the Third Republic, and on a number of occasions was not achieved. Recourse was sometimes had to the device of stopping the clock in the Chamber or Senate on 31st December, and continuing the sitting sometimes for several days until the Budget Bill was passed—"in the sitting of 31st

¹ Under two Decree-Acts (*décrets-lois*) of 1934, the Government is permitted, on occasions of great urgency occurring when Parliament is not sitting, to undertake expenditure on the authority of the Cabinet alone, provided such expenditure is later submitted for the ratification of Parliament.

² The word "budget" was originally taken into English from, and with the sense of, the old French word "*bouguette*", meaning a small leather bag or wallet. In English it acquired, during the eighteenth century, through metaphorical use, the meaning of an annual forecast of national revenue and expenditure. With this sense, and with the English spelling, it returned to French early in the nineteenth century.

³ The phrase *la loi de finances*, though used colloquially to refer to such an act, is not technically the title of the act. This will be a longer descriptive phrase, or series of phrases, as in the case of any other act (see chapter VIII).

December", and so, in appearance before the end of the old year.¹ But there were also years when the delay was much longer than a few days. The Budget Bill of 1912, for example, was not passed till July of that year. The Fourth Republic inevitably had a bad start, since the uncertainty about the constitutional position throughout the first ten months of 1946 could not but delay preparations for the Budget Bill of 1947, which did not become law until August, 1947. The main Budget Bills for 1948 and 1949 were passed before the end of 1947 and 1948 respectively. In each of those years, however, as described on p. 216, a large amount of budgetary matter, which should properly have been included in the same bill, was left to be passed later in separate bills. In 1950 the main Budget Bill was not voted until the beginning of February.

The administration of the country must, however, be carried on in a new financial year, even if the Budget Bill has not been passed; and administration implies expenditure. As no expenditure can be undertaken without the sanction of law, a special bill or bills have to be introduced in such circumstances, to provide the Government provisionally with funds until such time as those to be authorised by the Budget Bill are available. This is done by bills authorising the opening of Anticipatory or Provisional Credits² (*crédits prévisionnels*, or *provisoires*) for the new financial year. Under the Third Republic such Credits were usually opened for a month at a time. They were based on the Credits sanctioned in the previous Budget and by custom the sum so voted for any service might not exceed one-twelfth of that voted for the same service for the previous year. For this reason such Credits were known as "Provisional Twelfths" (*douzièmes provisoires*). The long period before the passing of the 1947 Budget Bill was covered by the raising of a series of Provisional Credits. Civil expenditure, for example, was met first by two bills, passed one in December, 1946, and the other in March, 1947, opening Credits for the following three months in each case, and then by two bills authorising "Provisional Twelfths" for July and August respectively. The authorisation of any expenditure by a Provisional Credit Bill must be confirmed in the Budget Bill which it anticipates, the Provisional Credit being then annulled.

The third condition associated with the Budget Bill—that one such bill should contain all the financial provisions for the year

¹ This device has again been used on several occasions since 1945

² A Credit (*un crédit*) is a sum of money which the Government are authorised to draw from the national funds and to spend on a specified purpose

—is purely ideal, and clearly beyond achievement in a complicated state. Even if the Government which introduced a Budget Bill were to remain in power for the whole financial year, it would be bound in practice to find the necessity for additional expenditure in some directions, and possibly also for less in others, and when several Governments succeed one another during one year, each is likely to want to modify the existing scheme of expenditure. On each occasion of that kind the Government seeks to have its needs met through a bill “providing for the opening and (*when necessary*) annulment of credits for the financial year 19 . . .” (*portant ouverture et annulation de crédits pour l'exercice 19 . . .*). Credits so opened are known as Additional or Supplementary (*additionnels, supplémentaires*). All those voted within a whole financial year, and sometimes in shorter periods, are later collected, totalled and confirmed in a bill granting a collective authorisation of payment (*projet de loi collectif d'ordonnancement*)

Besides the voting of Additional Credits, which occurs regularly in every financial year, other more exceptional proceedings have from time to time extended the annual financial provisions beyond the Budget Bill proper. In the years following the 1914-1918 War, recourse was had for the first time to what was termed an Extra-ordinary Budget (*budget extraordinaire*), which authorised expenditure on various exceptional undertakings necessitated by the War. It did not contain any provisions for taxation to cover this expenditure, but left it to be met by loans¹ and other special means. A similar expedient was again resorted to in 1947, 1948 and 1949, in each of which a Budget of Reconstruction and Equipment (*budget de reconstruction et d'équipement*) was passed in a separate bill, in addition to the Ordinary Budget (*budget ordinaire*), as the Budget proper was called.² In certain years after the 1914-1918 War there was also a third Budget, the purpose of which was to provide funds for paying for the repair of war damage out of reparations received from Germany. The Credits opened by an Extra-ordinary Budget can, and do, themselves lead to the voting of Additional Credits in special bills. Finally the unity of the Ordinary Budget itself was destroyed in the financial years 1947, 1948, 1949 and 1950, in that, through force of circumstances, it was in each year voted in several separate bills, as described on pp. 215-16.

Changes in taxation—the modification or repeal of existing

¹ The Government cannot raise a loan without the consent of Parliament

² There was also a special budget in 1936

taxes, or the introduction of new ones—are for the most part, though not necessarily, made only in the Budget Bill. The existing system of taxation is based on a number of statutes of various dates, but the imposition of every tax needs to be re-authorised for each financial year in the Budget Bill. If this bill is not passed by 31st December, there is in theory a gap, until it becomes law, during which it is illegal for the Government to collect taxes, though in practice it customarily continues to do so. The collection of revenue is regulated by an extensive code of administrative rules.

The legislative instruments through which the Assembly authorises taxation and expenditure thus consist of three kinds of bill—the annual Budget Bill (supplemented from time to time by Extra-ordinary Budget Bills), bills authorising provisional expenditure in advance of a Budget Bill, and bills authorising expenditure in addition to that already voted in the Budget Bill. The manner in which money is allotted to meet expenditure in such Bills is governed by two rules.

The first rule is that items of revenue may not be ear-marked to meet special items of expenditure, but must all be paid into the central funds of the State. This is known as the principle of the Non-assignment of Revenue (*la non-affectation des recettes*). It is based on practice only, but is firmly established, except in the case of the small number of services included in the Annexed Budgets described on pp. 214-15.

The second rule is known as that of the Appropriation of Credits to specific purposes (*la spécialité des crédits*), or of the Prohibition of Transfers (*l'interdiction des virements*). Since 1817, the Credits to be authorised in a Budget Bill have been divided into a number of Ministerial Budgets, each containing all the Credits to be appropriated for the use of an individual Ministry and each subject to a separate vote in Parliament. Within each Ministerial Budget the expenditure to be authorised is sub-allotted, in a long series of comparatively quite small sums, to special purposes. These sub-divisions are known as Chapters (*chapitres*). In 1831 it was enacted by law that Parliament should give a separate vote not singly on each Ministerial Budget but on each separate Chapter of each Ministerial Budget. This rule was relaxed for most of the Second Empire. It was finally re-established by the Act of 16th September, 1871, Clause 30, of which lays down that "The Budget is voted by Chapter; no transfer (*virement*) may be made from one Chapter to another". The provisions of this act remained in force under the Third Republic, and are in force to-day. As a result of it, a minister may not,

apply the money allotted to him by Parliament in one Chapter to a purpose named in another Chapter, nor may he spend more money on any purpose than is permitted in the appropriate chapter.

This rule is regarded as an essential instrument of parliamentary control of finance. Nevertheless, Parliament has from time to time consented to forgo the use of it in special circumstances, and to vote only on the Ministerial Budgets, or even simply on the grand total of expenditure. Such a relaxation of the law was again permitted under Act. no. 48-1921, of 2nd December, 1948, which laid down that the Credits for ordinary and extraordinary civil expenditure in 1949 were to be voted only by Ministerial Budgets. Parliament agreed to the procedure on this occasion in order to save time, in the hope of bringing the general financial proceedings of the country up to date (as described below, on p 216). It was declared to be a wholly exceptional measure.¹

The central funds of the State are constituted by the Treasury —*le Trésor*, a word which is used both of the funds themselves and of the place (also called *la Trésorerie*) in which they are collected and administered. This place is part of the Ministry of Finance, and it is the Minister of Finance who controls the Treasury. Into it are paid all state revenues, with certain exceptions, and out of it is paid all state expenditure authorised by Parliament. The bank of the Treasury is the Bank of France, the nationalisation of which, begun in 1936, was completed on 1st January, 1946.

2. *The Budget Bill*

(1) Preparation and Presentation

The preparation of a Budget Bill begins, normally, early in the year before that to which it applies, with the drawing up by each Ministry of an estimate of its expenditure in the coming year. These estimates are sent to the Ministry of Finance, when they are examined in relation to the financial situation as a whole, and collated into an estimate of the total expenditure of the State. This, together with the estimate of revenue, provisions for new taxes and alterations to the old, and any

¹ Such relaxation of the law had been agreed to by Parliament in 1914-1918 and 1939, as a war time procedure, and in time of peace for the financial years 1934, 1937 and 1938 and (by the first Constituent Assembly) for that of 1946. In 1934, 1937 and 1938, however, the Finance Committees of both Chambers had previously examined the Credits, Chapter by Chapter.

incidental financial measures which may be thought desirable, are formed into the Budget Bill at the Ministry of Finance, and under the authority of the Minister He in due course submits the bill to the Cabinet, where it is given its final form. It is then presented by the Prime Minister and the Minister of Finance to the National Assembly, in pursuance of Article 16 of the Constitution. The act of presentation consists merely, as in the case of any other bill, of the sending of the bill to the President of the Assembly, and is invested with none of the excitement of a British "Budget Day".

During the preparation of a Budget Bill the Government may, of course, be changed, possibly more than once, and the ministers who sanction the bill in its final form may not be those who supervised its preparation. But the matter involved is so vast and so complicated, that it has always been the custom for new Governments to make only minor changes in a Budget Bill which they find already in course of preparation when they come into office.

(ii) Form and Content

The Constitution provides, in Article 16, that "An Organic Act shall lay down the manner in which the Budget shall be set out". The preparation of a bill to fulfil this requirement was begun in 1947 by a special sub-committee of the Finance Committee, but at the time of writing, no proposals for its text have been published. The contents of the Budget Bill are restricted by the same article of the Constitution to "strictly financial dispositions".

The matter normally contained in the Budget Bill, in its traditional form (based on the provisions of a number of enactments of the periods of the Second Empire and the Third Republic), falls into three main groups (a) expenditure, (b) revenue and (c) various (administrative) provisions of a financial nature (*dispositions diverses d'ordre financier*).

(a) *Expenditure*.—This part of the Bill contains a comparatively small number of clauses, with a series of related schedules (*états*). The bulk of it is constituted by Clause 1, and the related Schedule A.

Clause I authorises the total expenditure of the year, names the amount of the total Credit opened to each Ministry, and states that each of these Credits is to be divided for special purposes as shown in Schedule A. If any Provisional Credits have been granted for the year in advance of the Budget Bill, Clause

i will contain a provision annulling them (since they will have been included in the Credits now to be authorised).

Schedule A forms the greater part of the whole bill. The material which it contains constitutes the equivalent of the British Estimates. Each Ministerial Credit mentioned in Clause 1 is set out in detail, being divided into numbered Chapters (*chapitres*), in each of which a specified portion is appropriated to a defined Service (*service*) within the Ministry. As described above (pp 211-12) every Chapter must be voted upon separately in the Assembly, in pursuance of the rule of the Appropriation of Credits to specific purposes. In addition, each minister presents to Parliament a document giving certain information required by law, and such other information as he may wish, about his Ministry. The purposes for which his Credit is to be used are here specified still more precisely, each Chapter being divided into Articles (*articles*).¹ Such documents are purely explanatory, they are considered by the Finance Committee, but not voted upon either by the committee or by the Assembly. In consequence, although the detailed appropriation shown in the Articles is binding on the personnel of his Ministry, it is not binding on a minister himself. He has the power to authorise the transfer of Credits between the Articles of a Chapter, without reference to Parliament or to the Ministry of Finance.²

The details of the Credits for certain Ministries which produce their own revenue, such as the Post Office (*le Ministère des Postes, Télégraphes et Téléphones*) do not appear in Schedule A, but in a separate Schedule B. This contains what are known as Annexed Budgets (*Budgets Annexes*). Each of these is a separate budget, showing the revenue, as well as the expenditure, estimated for the Ministry. Any surplus of revenue over expenditure in an Annexed Budget is included in the general estimate.

¹ The word *article* is here translated by "Article" to distinguish it from the same word when used in the sense of a clause in a bill (when it is translated by "clause").

² The following table shows, approximately, how the method in which proposed expenditure is set out in Schedule A and in the supplementary information provided by Ministers compares with that used in the British Estimates. The figures are taken from the French Budget Bill for 1947 and the British Estimates for 1947-48.

19 Departmental Budgets correspond to 10 classes of the Civil Estimates and to the Revenue Departments Estimates (except those of the Post Office).

The Budget of, e.g., the Ministry of Foreign Affairs corresponds to Votes 1 to 5 of Class II of the Civil Estimates.

Chapters 100-104 of this Budget (Salaries) correspond to Sub-Head A of Vote 1 of Class II.

The Articles of these 5 Chapters each set out the expenditure on salaries to a particular class of official, and correspond in general to the Items of Sub-Head A of Vote 1 of Class II.

of revenue, while an excess of expenditure over revenue must be included in an appropriate part of Schedule A. The separate Chapters of expenditure are voted upon by the Assembly, but not those of revenue, since they are simply a forecast, and cannot be binding.

In addition, various less important provisions as to expenditure are authorised in this part of the Budget Bill, by other clauses and schedules. Each of these schedules is either voted as a whole, or simply confirmed implicitly by the vote of the clause upon which it depends.

(b) *Revenue*.—This part of the Budget Bill is invariably considerably shorter than that dealing with expenditure. It includes an annexed schedule known as the Estimate of Ways and Means (*Evaluation des Voies et Moyennes*)—a forecast of the revenue anticipated for the coming year. This is not voted upon, as it clearly cannot be. It is simply confirmed as being Parliament's considered estimate by the voting of a clause which states that the revenue of the state for the year is estimated at the figure given in the schedule. Other clauses in this part of the bill will, as may be required, introduce new taxes, and modify or repeal those in existence. The continuance in force of all other existing taxes will be implied by the wording of a final clause, which will forbid the collection of all taxes not authorised by existing enactment or by the present act.¹

(c) *Administrative Provisions*.—Such provisions concern the methods to be employed by the Ministries in carrying out the expenditure allowed them and in rendering their accounts, and the various points of detail connected with the collection of taxes. Under the Constitution, they must be confined to "strictly financial dispositions".

All the material should in principle be, and in normal time is, contained in one bill. Thus the Budget Bill, even in the original form in which it is presented by the Government, is a bulky document, and may well run into several volumes. These will eventually be swollen to a large collection, by the explanatory matter presented by ministers, and by the General Report and numerous Special Reports of the Finance Committee.

In the first three financial years of the Fourth Republic the difficulty of the circumstances was such that it was necessary to divide the Budget Bill into several parts. The fact that the Constitution did not come into force until late in 1946, inevitably delayed the preparation of the Budget of 1947, no

¹ See, for example, clause 38 of Act no 47-1497 of 13th August, 1947 (containing the revenue and certain administrative provisions of the 1947 Budget).

part of which was presented to Parliament until after the start of the financial year. The provisions for ordinary civil expenditure, for the raising of revenue and for administrative arrangements, though originally presented in one bill, were later divided into four by the Assembly, on the proposals of the Finance Committee. By this means, time was saved, since each of the four bills could be sent on separately to the Council of the Republic as soon as it had been passed by the Assembly on First Reading. Military expenditure was from the first reserved for a separate bill. The complete Budget for 1947 was not enacted until August of that year. Before the end of the same year a Budget Act for 1948 was passed, simply enacting that the Credits for ordinary civil expenditure and the taxes for 1948 should, with small modifications, stand at the same figures as had been authorised for 1947. It contained only thirteen Clauses and two Schedules, one showing Credits not to be renewed in 1948, and the other granting Additional Credits. Military expenditure was again reserved for special legislation, and a further separate bill contained the Estimate of Ways and Means and administrative provisions. Considerable re-adjustments of ordinary civil expenditure were later made in a "Collective Bill of Allotment" ("collectif d'aménagement"). The passing of all this legislation was not completed until September, 1948. The fact that this delay was, as in the previous year, passed on to the Budget of the next year, and the necessity of getting the national finances back into their normal cycle, was the main reason for the adoption of the exceptional procedure for the voting of the bill providing for ordinary civilian expenditure in 1949 described on p. 212. In that year the Budget was again, mainly for the sake of time, divided among some five bills. Military expenditure was met by Provisional Credits until the passing of the main Military Expenditure Bill in July. For 1950 some return was made, at least in form, towards a single Budget Bill. A Finance Act, passed at the beginning of February, authorised the total sum to be provided for ordinary civil expenditure, for reconstruction and equipment, and for ordinary and special military expenditure, as well as the taxation for the year. The allocation of the permitted expenditure by Credit and Chapter was, however, left for later enactments.

The proceedings of these four years should be regarded as exceptional. The inclusion of all budgetary provisions in one bill remains the standard practice. It seems likely, however, that it will continue to prove difficult to achieve this standard, unless some simplification in the method of voting expenditure be

adopted. Provision may perhaps be made for such simplification in the proposed Organic Act to regulate the manner of presenting the Budget.

3. *The Passing of the Budget Bill*

The Budget Bill goes through the same series of proceedings as any other bill, but with certain elaborations, due to its special and complicated nature.

After presentation, it is naturally referred to the Finance Committee. A General Report (*rapport général*) is made on the bill as a whole, and on the revenue and administrative provisions, and presented by a General Reporter (*rapporteur général*). This report is usually not confined strictly to the matter in the bill, but contains reflexions on the condition of the national finances in general. The committee also appoints a number of Special Reporters (*rapporteurs spéciaux*), who prepare Special Reports (*rapports spéciaux*) on different sections of the expenditure provisions. The field covered by a Special Report is in many cases an individual Ministerial Budget, but this is not invariably so, and the number of Special Reports is usually greater than the number of Ministerial Budgets. Each Special Report is presented as a report of the whole Committee. It is in the Finance Committee that the detailed examination of the Budget Bill from the strictly financial point of view chiefly takes place.

Every other committee has the right to designate one of its members to attend the meetings of the Finance Committee, in a consultative capacity, when that part of the Budget Bill which concerns the committee is under discussion. For example, when the Finance Committee is considering the Credits for the Ministry of Foreign Affairs, a representative of the Foreign Affairs Committee may be in attendance. The Finance Committee is bound to convoke such delegates to the appropriate meetings.¹ A Special Reporter may also be asked to attend the appropriate committee, before that part of the Budget Bill with which it is concerned is discussed in the Assembly, so that it can be informed of the proposed contents of his Report, in the final draft of which he must mention this committee's views.² Advisory Reports can also be made on Chapters of Credits by committees concerned with them.³

In the Assembly itself, the discussion of the Budget Bill

¹ S O 26

² S O 68

³ S O 27

normally starts with the General Discussion on the whole bill, opened by the General Reporter. This debate and all the later stages of the bill, are subject to a rule that no proposal for a Resolution, no Interpellation and no Reasoned Order of the Day can be added to the text of the bill. At one time the discussions of the Budget Bill were apt to be inconveniently prolonged by debates of this kind, initiated more with the intention of impressing the electors than of achieving any practical results. The present rule forbidding such "parasitic matter", as it came to be called, originated from a resolution passed by the Chamber of Deputies in 1911.

On the conclusion of the General Discussion, the Assembly is free to consider the details of the bill in whatever order it finds most convenient. Consideration of the main expenditure clause is postponed until the whole of Schedule A has been voted (since alterations in the figures in the schedule will affect those in the clause). Within Schedule A, the Ministerial Budgets are considered in any convenient order. The examination of each begins with a General Discussion opened by the Special Reporter (unless he gives up his right to speak, and the Assembly decides to dispense with a General Discussion). Each Chapter of the Ministerial Budget is then discussed and voted upon separately. Unless the modification of the Chapter is asked for by the Government or the Finance Committee, or an amendment has been proposed, the debate on a Chapter can only be of a summary nature; no Deputy may speak more than once, unless exercising the right of reply to the Government or to a Reporter, and in that case he may not speak for longer than ten minutes.¹ The Reference Back to the Finance Committee, or the Reservation, of a Chapter can be requested by a Deputy, and must be granted if requested by the Finance Committee.² There is no Vote on the Whole Text of a Ministerial Budget. Similar procedure is used for the discussion of the Annexed Budgets in Schedule B. and of the clause upon which that Schedule depends.

An amendment proposed to one of the expenditure schedules must relate to an individual Chapter. It is permissible to propose a token reduction (*réduction à titre indicatif*) to a Chapter, in order to criticise, or otherwise call attention to, some matter

¹ S.O. 68. This rule originated from a form of procedure introduced in 1911, but abandoned in 1915, in which the discussion of the Chapters of the different budgets took place in what was called a General Committee (*Commission générale*) of the Chamber—a conception similar to the Committee of the whole House in the House of Commons. Speeches were limited to a quarter of an hour, and Deputies might speak from their places. The procedure was not to be applied to the first Budget Bill of a Parliament.

² S.O. 47.

of administration. The debates on the Chapters of Credits are in fact chiefly used, as are those on the Estimates in the House of Commons, not for strictly financial discussion, but for criticism of the administration of the Ministries for which the credits are to be voted.¹ The restrictions imposed on the moving of Amendments involving increase in expenditure are described on pp. 221-4 below.

The discussion of the Budget Bill in the Assembly ends with a Vote on the Whole Bill. The Bill is then sent to the Council, where it goes through a corresponding procedure, though this will almost certainly be in practice more summary, owing to the limited time at the disposal of the Council. Finally, any amendments which the Council may have proposed are decided upon by the Assembly on a second reading.

The passing into law of a Budget Bill is thus a long and complicated business. To compare the process with proceedings in the British Parliament one must imagine the Main Estimates and the Finance Bill for a given year combined into a single bill, that every line of this bill has first to undergo a detailed examination by a committee of specialists such as the Estimates Committee; and that in the House of Commons itself, besides debates on Second and Third Reading, there is an exhaustive Report Stage, during which the House may discuss and must vote separately upon every Vote Sub-Head, and even upon some of the Items in the Estimates; that this process is then repeated in the House of Lords, with Lords Amendments probably to be considered by the Commons in consequence, and that no provisions whatever exist for ensuring that the Estimates are passed by the House of Commons by the necessary date.

4. Bills opening Provisional or Supplementary Credits.

Financial bills of these two classes are usually much simpler in form than a Budget Bill. Taxation is normally fixed finally for a year in the Budget Bill and it is most unusual to authorise changes in it by other legislation. Moreover, all provisional and supplementary expenditure has eventually to be included in a Budget Bill, in which revenue should be provided to meet it. Bills authorising such expenditure do not therefore include any

¹ It is not unusual for a token reduction to be adopted by the Assembly. If, after a token reduction to the figure proposed by the Finance Committee has been adopted, the Government's original figure is substituted for the committee's, the token reduction continues to apply to the Government's figure.

revenue provisions. Nor, in principle, should a bill for Provisional Credits contain any general financial provisions,¹ though such matter is sometimes included in both kinds of bill.

A bill providing for "Provisional Twelfths" consists generally of a number of clauses authorising Credits in lump sums to Ministries and directing the latter to issue decrees dividing the Credits into Chapters. The four bills opening three-monthly Credits for the first half of 1947 were, however, more complicated — they were in fact replicas of the expenditure provisions of a Budget Bill, the appropriation of Credits being authorised by Chapter and Service, according to the Schedules of the bills. Procedure on these bills was similar to that on the Budget Bill. The discussion of bills for Provisional Credits can always be made the occasion for criticism of the administration of Ministers.²

Supplementary Credits are also usually appropriated by Chapters in Schedules to the bills authorising them. Such bills often include other provisions annulling, also by Chapter, Credits authorised in the Budget Bill for the year concerned, and a bill may, of course, consist wholly of such annulments.

5. *The Rights of Deputies to Initiate Financial Measures*

In the French financial system, as in that of any democracy, the question must inevitably arise of what rights shall belong respectively to the Government and to individual members of Parliament. In France, this question originally presented itself in the form of rivalry between the Legislative and Executive Powers. In the revolutionary constitutions, the right of initiating financial measures belonged exclusively to the Legislature, while under the First and (until 1869) the Second Empire, it was reserved to the Executive. The Charter of 1814, had, however, begun a system in which the rights were shared, though the part of the Legislature was at first limited. The Assemblies of the Second Republic took to themselves an equal right with the Government, and exercised it without restraint.

The Constitutional Acts of the Third Republic gave the Government and Parliament an equal right to initiate legislation of all kinds, including financial. This by then implied, not that a separate Executive and Legislature enjoyed the same powers but that the Government and Private Members had the same rights within Parliament. In practice, it was only in the

¹ Pierre, § 537

² Pierre, § 846

Chamber of Deputies that Private Members exercised their rights freely

The rights of the Government aroused no dispute under the Third Republic, and are clearly established now. The Government is free to initiate all forms of legislation including financial, and in practice the preparation and introduction of the Budget Bill, and of all bills the object of which is primarily financial, has been left to it. Ministers cannot move Amendments in the Assembly to financial bills, any more than to any other kind of bill. They can, however, address to the Finance Committee a Letter of Rectification (*une lettre rectificative*) asking it to raise the figures of a Credit, and the committee can then, if it wishes, make the amendment its own. It can also be arranged, as in the case of any bill, for a private Deputy to move an amendment on the Government's behalf in the Assembly. It is, in fact, a very common occurrence for a private Deputy to move, in the Assembly, that the figure of a particular Chapter, which the Finance Committee has reduced, be restored to the Government's figure, and for the Finance Committee to accept the amendment.

Under the Third Republic, the extent to which private Deputies used their rights for the purpose of proposing increases in expenditure came to be considered by many politicians as a danger to the national finances, and from 1900 onwards attempts were made to control it by Standing Orders. The effect of these, as they existed just before the second World War, was to curtail to a certain extent the right of private Deputies to present amendments which would cause increased expenditure to the Budget Bill, and to other bills opening Credits. To prevent the sudden and unexpected moving of such amendments, it was laid down that they might only be presented within ten days after the distribution of the report on that part of the bill to which they referred, and certain forms of increased expenditure might not be proposed at all by means of amendments to such bills. Further, in the case of any bill, the Government, the Finance Committee and the Main Committee each had the right to require the Separation (*la disjonction*) of any amendment involving the reduction of revenue or the increase of expenditure by comparison with the text of the bill, and if the President or one of the Reporters of the Finance Committee confirmed that an amendment would have this effect, its Separations had to be accepted forthwith, without further argument. Separation would, of course, prevent any chance decision in favour of the amendment, and mean that it would be treated

in the committee as if it were a separate bill.¹ It could not be again put on the Orders of the Day for eight days, in order that the Finance Committee might have time to study it, and could not be put down then (without the Government's express permission), unless it contained provisions for meeting the expenditure involved. The chances of an amendment so separated obtaining a favourable report from the Finance Committee would not be great. The right of Deputies to propose expenditure in separate bills of their own was not affected.²

The present Constitution (art. 17) assures to the Deputies of the National Assembly the right to initiate expenditure (which the members of the Constituent Assemblies did not have); but goes on to make the qualification that, "Nevertheless, no proposal tending to increase the expenditure contemplated or to create new expenditure can be presented during the debate on the Budget and on Anticipatory and Supplementary Credits". This prohibition is not so sweeping as it appears to be. Its effectiveness must depend on that of the Standing Orders through which it is carried out.

These are, in fact, distinctly less extensive than were those of the Chamber of Deputies. The only passage which relates to amendments to financial bills orders that "no Additional Clause may be presented (sc in the case of Budget Bills and of bills for Anticipatory or Supplementary Credits) unless its object is to abolish or reduce an item of expenditure, to create or increase an item of revenue or to ensure the control of public expenditure".³ This order refers to "Additional Clauses" only, a term which cannot include "Amendments" although "Amendments", used generally, does include "Additional Clauses"⁴; and the context makes clear that it is directed to the exclusion of matter not strictly relevant to the bill, rather than of provisions increasing expenditure. The Government, the Finance Committee and the Main Committee on the bill have almost precisely the same powers as they had under the 1936 Standing Orders to require the Separation of amendments,⁵ and the restrictions on the proceedings on separated amendments are much the same.⁶

A passage in a debate which took place in the National

¹ See p. 188

² See Standing Orders of the Chamber of Deputies, 1936, nos 101, 102, 86 and 96 bis

³ S O 68

⁴ As in S O 86 of 1936, already referred to

⁵ S O 48

⁶ S O 35

Assembly on 29th May, 1947, on proposals concerning the manner in which the debates on the Budget Bill of 1947 should be held, shows that the one real control over the increase of expenditure through amendments, etc., moved by private Deputies to financial Bills is, and was under the Third Republic, the power of the Finance Committee to insist on the Separation of such amendments without further argument. M. Louis Marin, a veteran of the Chamber of Deputies, claimed that in the past this power had never been invoked by the Finance Committee until an amendment had been discussed and was about to be voted upon. The President of the Finance Committee (M. Christian Pineau) agreed that this had been the past procedure and implied that it would continue to be.

The present practice is, in fact, clearer than the theory, and may be summed up as follows

- (1) The right of Deputies to propose expenditure in separate bills of their own is unlimited¹
- (2) In relation to Budget Bills and bills for opening Anticipatory or Supplementary Credits the right to *present* amendments involving increased expenditure (except in the form of Additional Clauses as described above) is not curtailed.
 - (a) If such an amendment is presented before the bill has been reported, nothing prevents it being discussed and adopted by the Finance Committee. Under the Third Republic occasions were known, though they were not frequent, on which the Finance Committee increased the figure of a Credit proposed by the Government.
 - (b) If such an amendment is moved in the Assembly the Finance Committee usually permits it to be discussed, but together with the Government, it retains and often exercises, the power to prevent it being voted upon by requiring its Separation. It does happen from time to time that a Credit is, through a private Deputy's amendment, restored to the figure originally proposed by the Government, from which it had been reduced in committee.
- (3) In relation to all other bills, the right to present amendments involving increased expenditure is unlimited, although the Government, the Finance Committee and the Main Committee can each require their Separation.

¹ In such a bill, the expenditure proposed would have to be allotted to a Ministry, and appropriated by Chapter and Service, as in a Government Bill.

- (4) The rights of Deputies to propose increases in taxation, or new taxes, is unlimited.

All these rights are, in practice, exercised subject to the approval of the Finance Committee, the authority of which is such that it can virtually ensure the defeat of a separated amendment, or a private member's bill, by making an adverse report on it. Thus, while the private Deputy has great freedom to make financial proposals he has much less chance of passing them into law, and indiscriminate and irresponsible addition to the national expenditure is prevented.

II. CONTROL OF AUTHORISED EXPENDITURE

Current Expenditure

The control exercised by the Assembly over national expenditure does not end when it has authorised Credits, but is maintained during their employment. In this respect each Chamber has the same rights, laid down by law¹ and mainly exercised through its Finance Committee. The Special Reporters of the two Committees have the right and the duty to follow and control the employment of Credits authorised to the Ministries with which they are concerned. They have access to these Ministries and to their documents, and must be given any information they need.

The two Finance Committees have also special statutory relations with certain officials who constitute the chief instrument of control over expenditure by the Executive itself. These are the Controllers of Current Expenditure (*les Contrôleurs des dépenses engagées*). They are appointed² by the Minister of Finance from among his own staff and are responsible to him alone. One or more of them is attached to every Ministry, where, among other duties, they must ensure that the actual expenditure of Credits is in exact conformity with the authorisation of Parliament. Whenever the President, the General Reporter or a Special Reporter of either Finance Committee so request, a Controller of Authorised Expenditure must supply the committee with all the information he has obtained relating to the finances of the Ministry to which he is attached.

¹ Act No 47-520, of 21st March, 1947, "relative to various dispositions of a financial nature". The provisions referred to on pp 224-5 are to be found in clauses 67-72, they are based on those which were in force, under various laws, at the end of the Third Republic.

² Under the provision (still in force, with some modifications) of the Act of 10th August, 1922, "relating to the organisation of the control of authorised expenditure", and of the Act of 21st March, 1947, already referred to.

The Service Ministries are subject¹ to special supervision. The Finance Committee of each Chamber must set up annually a sub-committee of five members, to which are joined three members of the Committee of National Defence and one member from the Committee of Overseas Territories of each Chamber. These sub-committees have wide powers to enable them to supervise and investigate not only monetary expenditure but also questions of man-power and material.

2. *The National Accounts*

The final stage in the financial proceedings of the state is the drawing up and scrutiny of the national accounts. The National Assembly is associated with this task by the Constitution, which lays down (art. 18) that, "The National Assembly orders the accounts of the Nation. For this purpose it is assisted by the Court of Accounts". These words imply the continuation of procedure which existed before the war. The only difference is that now the First Chamber only, instead of both Chambers, is constitutionally associated with the study of the national accounts. Accounts Bills, however, will have to go before both Chambers like any other bill. The principles of this procedure were laid down, by several acts and regulations, under the Restoration, since then they have been altered in matters of form and detail only and may be expected to continue in force. They involve a double scrutiny of the accounts, by the Assembly and by a body outside it. An Organic Act regulating the procedure of this scrutiny is being prepared by a sub-committee of the Finance Committee.

The Court of Accounts (*la Cour des comptes*) which is named in the Constitution as the assistant of the Assembly has a very long history, through the Chambers of Accounts (*Chambres des comptes*) of the Old Regime; in its modern form it dates from the Napoleonic Act of 16th September, 1807. It is an administrative tribunal, independent of both Government and Parliament.¹ The annual accounts of all Ministries and of any other public body of whom the law so requires, must be sent to the Ministry of Finance, by whom they are transmitted to the Court of Accounts. The Court examines them in full, and issues judgments (*arrêts*) upon their correctness or incorrectness. It has

¹ Two-thirds of the appointments to positions in the Court of the lowest rank are made through competitive examination, one-third by Government appointment from the Civil Service. A proportion of higher Civil Servants is also taken into the second rank. The holders of higher ranks cannot be dismissed from them, without the agreement of the Court.

power to order the payment by an official of sums which the accounts show to be due from his Ministry but which have not to be produced. Appeal from the judgments of the Court can be made to the Council of State, on points of form and law only. The examinations carried out by the Court of Accounts are most thorough, and it is probable that few, if any, irregularities in accounting escape it.

The part of Parliament, and in particular of the Assembly, is to make a further scrutiny of these accounts, copies of which will have been presented to it and published, and to draw up a final balance sheet for the nation, to be given legal validity in an Accounts Act (*loi des comptes*). In both tasks the Assembly (though not the Council) can call upon the help of the Court of Accounts. Under the Constitution (art. 18) the Assembly can charge the Court "with all forms of enquiry and research connected with the ordering of the public revenue and expenditure or of the administration of the Treasury". Its Standing Orders allow the President and General Reporter of the Finance Committee, and when necessary the President of any other committee, to communicate direct with the Court.¹ The Chamber of Deputies for some years set up a Committee of Final Accounts (*Commission des comptes définitifs*). The Assembly has not done this, and unless it does so the functions which that committee performed will presumably fall to the Finance Committee.

The bill intended to become the Accounts Act will be based upon a General Account presented to the Assembly by the Finance Minister. This will be considered by the Assembly in the light of the judgment of the Court of Accounts on individual Ministerial Accounts, of its pronouncements upon the General Account and of any further information which it may have furnished. The whole expenditure of the year concerned will once more be set out by ministerial divisions, sub-divided into Chapters. Any excesses of expenditure over the authorised Credits are given retrospective validity by the voting of Complementary Credits (*crédits complémentaires*).

Under the Third Republic, Accounts Acts were often not passed for a number of years after the year to which they referred. They were seldom the object of much interest, and sometimes went through the Chamber of Deputies without debate. These two tendencies aroused some criticism. They are, however, to some extent the result and the proof of the thoroughness with which the scrutiny of the national accounts

had been performed at its earlier stages. Few irregularities were likely to escape the examination of the Controllers of Authorised Expenditure, the Reporter of the Finance Committee and the Court of Accounts, and the knowledge that this was so would itself dissuade officials from attempting anything irregular. Thus the unauthorised expenditure to be legalised by Accounts Acts consisted invariably of small amounts, the circumstances of which had already been thoroughly investigated.

3. The Accounts of Nationalised Industries

The nationalisation of great industries has produced in France, as in Britain, the problem of how much control shall be maintained by Government and by Parliament over their finances. In some of these industries, Financial Controllers (*contrôleurs financiers*), appointed by the Government, play a part analogous to that of the Controllers of Current Expenditure in the Ministries. Various other provisions have also been made by law to enable Parliament to maintain supervision.¹ The Government must annually, at the beginning of the session, present to Parliament a document containing the accounts of all the nationalised industries and other Government-controlled undertakings, with certain reports upon them. In each Chamber sub-committees are to be formed, each of which is to follow and express judgment on the administration of an industry. Each sub-committee is to consist of sixteen members, eight from the Finance Committee (of the appropriate Chamber), four from the Committee on Industrial Production and four from the Committee on Economic Affairs, Customs and Commercial Conventions. They are to have all the facilities and assistance they require to enable them to ascertain the economic and financial state of the undertakings. In addition, an extra-parliamentary Committee for the Inspection of the Accounts of Public Undertakings (*Commission de Vérification des Comptes des Entreprises Publiques*) has been set up, and must annually present a General Report on the activities of such undertakings and the results achieved by them, to Parliament, to the Prime Minister and to the Court of Accounts. Its first report was published in the Official Journal of 21st August, 1949. It is still too early to say how successful these very interesting experiments are likely to be.

¹ In particular, under the Act of 21st March, 1947 (as later amended), and Act No 49-958 of 18th July, 1949 "strengthening parliamentary control of public expenditure"

4. *The Finance Committee*

The Finance Committee (*la Commission des finances*) is the oldest of the General Committees—indeed it is considerably older than the present Permanent Committee system itself. An exceptional Committee on the Budget (*Commission du budget*) was first set up in the Chamber of Deputies during the Restoration period, and developed then the procedure still used by the modern Finance Committee in considering the Budget Bill. Under the Third Republic, a similar Budget Committee was set up annually by the Chamber from 1876 until 1915, when it was absorbed into the Permanent Committee system. The attributes of the Committee on Fiscal Legislation were then transferred to it, and it was re-named the Finance Committee. Since 1946 it has also succeeded to the functions of the former Accounts Committee.*

Under the Third Republic the Finance Committee came to possess a wider influence and a greater prestige than any other Committee of the Chamber of Deputies, and its successor in the National Assembly has inherited much of the same position.¹ The cause lies in the nature of its functions. Whereas other committees must confine their attention to one Ministry, or at the most to a few related Ministries, the Finance Committee can investigate the expenditure of all. In Pierre's words, "The fear of the Budget Committee is the beginning of wisdom for those who handle State funds".² But it is impossible to pass judgment on expenditure without examining the administration for which it is intended to pay, and so the power of the Finance Committee is felt by Ministries in all their activities. This power is not exerted only at the stage of authorising expenditure, but extends to supervision of the current expenditure of Ministries, and finally to their accounts. In 1947 and the following years, the activities of the Committee have probably been wider than ever before. Sub-committees of the Committee itself have performed tasks ranging from the preparation of Organic Acts to govern national financial procedure down to the investigation of misuse of motor vehicles in Government Departments; while its members have taken part in various governmental committees of enquiry in France, in the Colonies and abroad. The importance of the Committee is further enhanced by its methods of work, since the system of appointing Special

¹ The Finance Committee of the Senate enjoyed a position of probably even greater influence, which that of the Council of the Republic naturally cannot maintain under the present Constitution.

*² § 312

Reporters on Ministerial Budgets provides opportunities for the ambitious which no other committee can offer.

Under the Third Republic the prestige of the Committee was such that it became a tradition that the posts of President and General Reporter were steps to that of Finance Minister.¹ The Committee itself came to be generally regarded as of greater importance than any other,—“The Queen of Committees”, (*la commission reine*) as one experienced writer called it.² The superior position was for long visible in the rooms allotted to it in the Palais Bourbon which were larger and better furnished than those of any other committee, and to-day, among the civil servants attached to committees, only those working with the Finance Committee and the Committee of National Defence may have a permanent office within the precincts³

It is thus with the formidable authority that the Committee faces, in debate over expenditure, not only the private Deputy, whose power of initiating expenditure lies at its mercy, but also the Government. As a body it is assured of a stability and a permanence which a Government can seldom hope for. Its members are many of them experts, each of whom may have more knowledge of a given Ministry than the minister himself. It is true that the Government's majority in the Assembly is reproduced proportionately in the Committee, but party divisions are often obscured through tradition and *esprit de corps*, which tend to make the members take a “committee view”, and through personal feelings which take on greater importance in a smaller body. On the other hand, the very experience of the Committee and its permanent contact with the national finances, tend to prevent irresponsible action. The members always face the prospect that if they are too intransigent towards the Government, it may resign, and they themselves, or some of them, may have to face the same difficulties as ministers in a new Government. The Committee thus tends to require thorough proof of the necessity of expenditure and of the efficiency of the administration to which it is to be allotted, and to make frequent minor reductions in the Credits asked for, but not completely to upset the Government's financial proposals. There were, however, occasions under the Third Republic when the Finance Committee of one or another Chamber attempted to interfere more drastically, and there is no doubt that the views of the

¹ In a speech in the Assembly on 29th May, 1947, M. Louis Marin jocularly claimed that he himself had been the only exception to this rule

² Joseph Barthélémy, *Essai sur le Travail Parlementaire et le Système des Commissions*, (p. 279).

Finance Committees were often an important consideration to Governments. In the first four years of the Fourth Republic the influence and power of the Committee has probably been somewhat less than it was under the Third. This may, in part, be due to a comparative lack of trained and seasoned parliamentary financial experts, such as made up its membership in former times—a natural consequence of the break in parliamentary history during the last war.

Chapter Ten

THE NATIONAL ASSEMBLY AND THE EXECUTIVE

INTRODUCTION

THE CONSTITUTIONAL relationship between the National Assembly and the Government is based, as described in Chapter II, on the provision that "Ministers are responsible to the National Assembly, collectively for the general policy of the Cabinet, and individually for their personal actions"¹ In consequence of this provision, it is the Assembly which votes Governments into office, and the Assembly which, by withdrawing its support, compels them to resign. The constitutional requirements concerning the appointment and dismissal of Governments were also explained in Chapter II. The parliamentary procedure through which these requirements are fulfilled are described in Part I of this chapter.

The Assembly's powers of control over Ministers are not, however, limited to their appointment and dismissal, and to the extreme course of sending them for trial before the High Court of Justice. They are used continually in a variety of less spectacular ways, to maintain close scrutiny and criticism of the Government's administration from day to day. Some of these ways have already been described. The permanent General Committees, especially the Finance Committee, play an outstanding part in this work, armed when necessary with the additional weapon of Powers of Enquiry, and supplemented from time to time by special Committees of Enquiry. The Assembly itself uses the discussions on Chapters of Credits in financial bills as an opportunity for criticising the administration of the Ministries for which expenditure is to be voted. There are four other forms of procedure, which contribute in varying degrees to this work of control and criticism, covering all aspects of administration from general policy to individual cases. These are described below, in parts II to V.

I. INVESTITURE, CONFIDENCE AND CENSURE

i. *Motions of Investiture*

Under the Third Republic no special procedure, either

¹ Const., art. 48

constitutional or parliamentary, was laid down for the setting-up of a Government. The President of the Republic appointed the Prime Minister, as he did the holders of all public positions.¹ The Prime Minister then chose his Cabinet, and announced its policy to the Chambers. His chance of being able to hold his office was soon made clear by their voting. As a result of the Constitution of 1946 the proceedings have become somewhat more formalised. Under Article 45, the President of the Republic is to designate the Prime Minister who (after the necessary negotiations) is to submit his programme to the Assembly. The Prime Minister and his ministers cannot be finally nominated to their offices until the former has been invested with the confidence of the Assembly, by an absolute majority at a Vote by Open Ballot.

These constitutional requirements have given rise to a procedure which, though it is not mentioned in the Standing Orders, appears to be in process of becoming fixed.² Proceedings are opened by the Prime Minister Designate (*le Président du Conseil désigné*), who makes a declaration (*déclaration*) describing the programme and policy of the Cabinet which he proposes to form. A debate is then held on this declaration, probably ending with a reply by the Prime Minister. A Deputy from one of the parties supporting the Government will then present a Motion of Investiture (*motion d'investiture*) in support of the Prime-Minister Designate. This term "Motion of Investiture" is new in French procedure and results from the wording of the Constitution. Its form, however, has already become standardised, consisting usually of a declaration that "In conformity with Article 45, paragraph 3, of the Constitution, the National Assembly invests Mr. X with its confidence". Deputies may then make short speeches in explanation of their votes (*explications de vote*). The proceedings end with the Vote by Open Ballot, the result of which the President announces in the words "The constitutional majority having (*or* not having) been attained, the investiture is (*or* is not) granted".

2 Questions of Confidence³

Under article 49 of the Constitution the right to put the Question of Confidence (*poser la question de confiance*) belongs to the Prime Minister alone. When it has been put, one clear

¹ Under art 3 of the Constitutional Law of 25th February, 1875

² See, for example, the proceedings in the Assembly on 24th July, 31st August and 10th September, 1947, and on 13th, 20th and 27th October, 1949

day must elapse before the vote on it is taken. Apart from the observation of the constitutional requirements, there is no special procedure on a Question of Confidence. Such a question does not, in fact, exist as a separate proceeding; it is put on some other item of business. The types of matter which most often give rise to it are Interpellations, clauses in bills, or Chapters of Credits in financial bills (or amendments to either of these) and Votes on the Whole of a Bill, but it could probably be put on almost any kind of proceeding. A Motion of Investigation by its nature entails the Question of Confidence, though in the specialised form and under the procedure described above. On the other hand an Order of the Day of Confidence, as explained below, does not involve it unless the question is specifically put by the Prime Minister.

As soon as the Question of Confidence has been put, the debate then in progress is adjourned. When it begins again, not earlier than one clear day afterwards, speeches are, by present practice, limited to explanations of vote (*explications de vote*) lasting not longer than five minutes each. The discussion will naturally tend to spread beyond the original matter on which the Question of Confidence was put, and to involve the general policy of the Government. At the end the vote takes place. The Constitution requires that this should be by Open Ballot, and the Standing Orders make checking of the count (*pointage*) obligatory.¹ A refusal of confidence is not valid, and therefore does not bind the Government to resign, unless supported by an absolute majority of all Deputies. The Vote however, affects not only the Question of Confidence itself, but also the text upon which the question was put, although the adoption or rejection of this depends only upon the bare majority of the votes.

3. *Motions of Censure*

The term Motion of Censure (*motion de censure*) is also new to French procedure. It was brought into official existence by Article 50 of the Constitution, which lays down conditions for a vote upon such a Motion similar to those required in the case of a Vote of Confidence. The Motion of Censure in the form in which it is known in Great Britain—that is, a separate reasoned Motion, ending with the expression of censure on the Government—had never previously been used in France, nor was any reference to Motions of Censure included in the

¹ S O 82

Standing Orders of 1947. No use was in fact made of such a proceeding under the Fourth Republic until March, 1949. The events on that occasion may furnish some, though not a complete, guide to the procedure likely to be used, should it be required, on a future occasion.

The first Motion of Censure arose out of the attitude of the Government in supporting a proposal to defer till a later occasion the continuation of the discussion (begun on an earlier day) of Interpellations on the Government's policy in Indo-China. Immediately after the vote on this proposal, which was agreed to, a Deputy presented a Motion of Censure, in the form of a letter to the President, simply stating that he was presenting such a Motion. He was asked to explain the import of the Motion, which he did briefly. After a short exchange of views the Assembly then fixed the date for the discussion of the Motion, allowing, of course, for the interval of one clear day required by the Constitution. The letter handed in on this occasion was the only text in which this Motion of Censure was expressed, no reasoned Motion being ever presented to the Assembly.

The discussion took place on 15th March. It opened with the consideration of a Preliminary Motion to the effect that the Motion of Censure should be treated, for the purposes of the rules of debate, as if it were an Order of the Day following an Interpellation. The acceptance of this view would have meant that, before the explanations of vote (*explications de vote*), full-length speeches could have been made by the leaders of the political groups and by a member of the Government. The Preliminary Motion was defeated, however, and the Assembly agreed to proceed as in the case of a Question of Confidence, only explanations of vote lasting not longer than five minutes each being allowed. At the end of these a Vote by Open Ballot was held, as required by the Constitution, and the Motion of Censure was rejected.

A second Motion of Censure, connected with the subject of the Interpellations out of the discussion of which the first Motion had arisen, had meanwhile been presented by another Deputy. Unlike the first, this was drafted as a reasoned Motion, framed so as to set out the views of the Assembly and ending with an expression of its censure of the Government. Its text had been read to the Assembly by its proposer. Immediately after disposing of the first Motion of Censure, the Assembly proceeded to decide how it wished to deal with the second, and, after a Vote by Open Ballot, deferred its

consideration to 9th November following (thus, in effect, deciding not to consider it at all).¹ •

The events just described provide, at the time of writing, the only precedents for the procedure to be followed in the consideration of Motions of Censure.

II. INTERPELLATIONS (*Interpellations*)²

1. *The Nature of an Interpellation*

The *Interpellation* has no exact equivalent in British procedure, and it is usually referred to in English by the same word, as an Interpellation. The term means a request, addressed to a Minister, for an explanation of his actions. It implies a certain peremptoriness,³ and carries the threat that it may be followed by a vote reflecting favourably or unfavourably upon the conduct of the Minister concerned, and upon the Government of which he is a member. An Interpellation may not be addressed to a Deputy who is not a Minister.

The Standing Orders of 1791 mention the procedure of interpellating Ministers. It was not until the July Monarchy, however, that the present procedure began to take shape, when the Chamber of Deputies successfully asserted the right of Interpellation, which had been denied to it from 1814 to 1830. The Legislative Assembly in 1849 laid down rules of procedure which since then (except for the period 1852-1869, during which the right of Interpellation was suppressed) have remained in force in French parliamentary assemblies without any alterations of principle.

2. *Procedure on an Interpellation*

The procedure on an Interpellation falls into three parts—(i) the presentation of a request for permission to put an Interpellation (*demande d'interpellation*), (ii) the fixing of the date for putting the Interpellation; and (iii) the Interpellation itself, and the subsequent debate, ending with the discussion and vote upon a motion (or upon several motions) in a particular form known as an Order of the Day (*un ordre du jour*).

¹ See V R 11th March (31st Sitting) and 15th March, 1949

² S O 89-93

³ The word is also used in the sense of a question addressed to a witness in a court of law, and of a challenge by a sentry

(i) Presentation of a Request for Permission to put an
Interpellation

The act of Interpellation, being a form of question, is a personal one which only one Deputy can perform at a time. A request for permission to put an Interpellation may therefore only be presented by a single Deputy. He must make it to the President of the Assembly, in writing, with a brief explanation of the object of the Interpellation. The President must at once inform the Government of the request and acquaint the Assembly on the next sitting day. The announcement to the Assembly is made in the form of a "book entry" in the Verbatim Report, in the formula, "I have received from Mr. X a request to put an Interpellation on . . ." The concluding words constitute a short description of the subject matter, for example, "on the foreign policy of the Government", or, "on the functions of the Minister of National Defence resulting from Decree No. 46-256 of 7th February and the probable effect on the morale of the troops fighting in Indo-China." This description will be used in all subsequent references to the Interpellation.

(ii) Fixing of the Date for putting the Interpellation

If no request for the immediate fixing of the date is made at the same time as the request for permission to put the Interpellation, the announcement ends with the words, "The date of the debate will be fixed later" ("La date du débat sera fixée ultérieurement"). In this case, it is left to the Conference of Presidents to propose a date, unless the President is previously informed that the Government and the interpellator have agreed upon one. In either case, the date must be confirmed by the Assembly. The Standing Order requires that the question of the fixing of the date should be put down for consideration on a Tuesday afternoon, but this rule is not strictly observed.

The request for an Interpellation may, however, be accompanied by a further written request, which must be signed by fifty Deputies, for the immediate fixing of the date. In this case the President must inform the Assembly at the earliest convenient moment in the sitting. The names of the fifty signatories are read out, and if they are all present (and provided that the Government has been notified of the Interpellation), the Assembly must decide without debate, in a Vote by Sitting

and Standing, whether it will proceed forthwith to fix the date for the Interpellation.

The Debate on the fixing of the date, whether held immediately or later, is of a limited kind. The only Deputies who may take part are the Interpellator himself, a representative of the Government and the presidents of the party groups, or their delegates, none of them may speak for longer than five minutes. The debate should strictly be confined to the question of fixing the date, but this rule, like other rules of relevancy, is very little enforced. In practice, the occasion of the fixing of the date is often used to initiate a short debate on the spot upon the subject of the Interpellation, especially if this be a matter of only secondary importance. It can also be used simply to prolong discussion of an announcement by the Government.¹ In such cases, the interpellator is often satisfied with this discussion alone, and the Assembly usually decides at the end of it that the Interpellation itself shall be "postponed till a later occasion" (*envoyée à la suite*). This means, in fact, that it will not be considered at all. On the other hand, when the matter of the Interpellation is one of immediate practical interest, the Assembly may, without debate, grant a request for immediate consideration and proceed at once to the Interpellation itself.

When the subject of the Interpellation is one of more lasting importance, the Assembly will decide a suitable date, taking into consideration the views of the Government and its own programme. The presentation of a request for permission to put an Interpellation on any matter of great interest is certain to be followed by others; each political group may perhaps present its own request. The presenters of these later requests may ask for the taking together (*jonction*) of their Interpellations with the original one. Such a request is out of order if made later than the three sittings following the fixing of the date for the original Interpellation, or after the debate on it has begun. If the Government has no objection to the proposal, it is taken as agreed to; if the Government objects, the Assembly must decide the matter in a Vote by Sitting and

¹ See, for example, the proceedings on 6th December, 1947. The Minister of Labour and Social Security made a statement on the situation arising out of the general strike. After a Deputy had exercised the right of reply to the Government, a request for an Interpellation and for the immediate fixing of the date was presented. The latter request being agreed to, a short debate took place, in which the speakers discussed the labour situation. The Assembly then decided to "postpone the fixing of the date till later".

Standing. The taking together of several Interpellations is a very frequent proceeding.

(iii) Debate on the Interpellation itself

The debate opens with the development of the Interpellation. The right to develop an Interpellation rests only with the interpellator himself, but if he is prevented from exercising it, the right to appoint a substitute belongs in the first place to the president of his political group.¹ If the latter does not exercise the right, the interpellator himself may appoint a substitute.

If there are several Interpellations to be discussed, the interpellators speak in the order in which their Interpellations were presented. The Government may reply after each separate Interpellation, or after certain of them, or may wait till all have been developed.² When all the Interpellations have been developed, and the Government has replied, a General Discussion (*discussion générale*) is opened, in which all Deputies may take part, and to which the Closure may be moved.

When the General Discussion has been closed, the final stage is reached, in which the Assembly must express the conclusions which it has reached as a result of discussion. This is done by means of a particular type of motion in which the Assembly, with or without comment, signifies that it has discussed the matter sufficiently, and is ready to pass on to the remainder of the Orders of the Day. Because of this traditional form, such a motion is known as an Order of the Day (*un ordre du jour*). If no motion is presented, the President must put to the vote the "Order of the Day pure and simple" (*l'ordre du jour pur et simple*), the adoption of which signifies that the Assembly simply proceeds to the next business, without recording any statement of its views. Frequently, however, a reasoned Order of the Day (*ordre du jour motivé*) will have been presented during the debate. The following shows the bare form of such a motion.

"The National Assembly,
After hearing the statements of the Government,
Expresses its confidence in the Government,

¹ This provision did not exist in the pre-war Standing Orders. Its existence is one of the signs of the increased importance of the party in Parliament.

² It has also been known for such a discussion to be opened by a minister, who was followed by the first interpellator, but this was a most exceptional procedure.

And, rejecting every addition,
Passes to the Orders of the Day.”¹

This example is a very simple one. A reasoned Order of the Day often contains several paragraphs, in which the views of the movers are explained. It may end not with an expression of confidence but with an adjuration to the Government to take certain action.² Several Orders of the Day, expressing different points of view, may well be presented at the same debate.

The President reads out such Orders of the Day as he has received, as soon as the General Discussion is over. If there is more than one, the Assembly decides, if necessary after a discussion and vote, the order in which they are to be taken (though, of course, the adoption of one of them entails the abandonment of any that have not yet been discussed). The Order of the Day pure and simple has priority, if proposed at the same time as reasoned Orders of the Day, and priority is given next to an Order of the Day containing a request for a Committee of Enquiry. Before voting upon an Order of the Day the Assembly holds a further short debate. Full length speeches may be made only by one of the Deputies who presented the Order of the Day, by the presidents of the political groups or their delegates, by a Minister and by a representative of any committee involved. Other Deputies may only speak for five minutes each to explain their vote. An amendment to alter or add to the text may be moved to an Order of the Day, provided that it has been presented before the Order of the Day was read to the Assembly (and provided that it does not refer to an Order of the Day which includes the phrase “rejecting every addition”). An Order

¹ V R 13th March, 1947, p 900. An Order of the Day expressing confidence in the Government, without qualification, is known as an Order of the day of Confidence (*un ordre du jour de confiance*). It does not constitute a question of confidence within the meaning of art 49 of the Constitution unless the Government expressly announces that it will treat it as such.

² The following is an example of a more complicated Order of the Day

“The National Constituent Assembly,

Saluting the efforts made by all Frenchmen, Mussulman and European, for the material and moral improvement of Algeria,

Saluting the heroic fighters of the French Army of Africa, closely united, whatever their origin, in their ardent love of France,

Uniting in the same concern the material and moral destiny of the European and Mussulman populations of Algeria,

And taking note of the statements of the Minister of the Interior,

Expresses its confidence that the Government will at the earliest opportunity introduce a bill to constitute the Statute of Algeria which will allow all to realise in the same spirit the destiny of the French community,

And passes to the Order of the Day” (V R of the second Constituent Assembly, 29th August, 1946, p 3286)

of the Day may also be withdrawn before it has been voted upon.

The debate on an Interpellation illustrates more clearly than any other proceeding the French conception of the process of debate. It begins, not with any formal motion expressing a preconceived opinion, but simply with the expression of criticisms and inquiry by the interpellator who, by his speech, sets the subject of debate. Not until the minister concerned has replied, and perhaps others have also spoken, is an expression of opinion, in the form of an Order of the Day, put forward to be decided upon by the Assembly. This is a logical and sensible proceeding. You cannot—at any rate, you should not—make up your mind either to acquit or to condemn a minister until you have heard what he has to say.

The procedure of the Interpellation is extremely elastic. It can be used to clear up a minor administrative problem, to enable immediate discussion of a sudden crisis, or to provide the occasion of a long and weighty debate, covering perhaps four or five days, on a grave matter of policy. It fulfils functions which in the House of Commons are performed by various pieces of procedure—"private notice" questions, motions for the adjournment of the House, discussion in Committee of Supply, and substantive motions. Between the first meeting of the National Assembly on 28th November, 1946, and the close of the Extraordinary Session of 1948, on 6th January, 1948,¹⁹⁷ requests for Interpellations were presented. Of these 58 gave rise to a debate on the Interpellation itself. The subjects covered ranged from the case of an individual ex-prisoner of war to the whole policy of a Government.

III PROPOSALS FOR RESOLUTIONS¹

Another form in which the Assembly can put forward its views and suggest action to the Government is the Proposal for a Resolution (*proposition de résolution*). This, when adopted, is called a Resolution (*résolution*) and constitutes a suggestion made by the Assembly to the Government (which is in no way bound to follow it). The use of Proposals for Resolutions for this purpose was introduced in 1915, though a similar but less formally regulated procedure had been in use as a matter of practice for many years previously.² A Proposal for a Resolution is normally originated either by an individual Deputy or by a number of Deputies, or by a committee. It may also be transmitted from the Assembly of the French Union.

¹ S.O. 20 and G.I.V.

² See Pierre, § 450.

The procedure on a Proposal for a Resolution is the same as on a bill, though naturally in a simpler form. The Proposal must be presented in writing, and must be prefaced by a Statement of Intention (*exposé des motifs*). The Proposal proper should, if long, be divided into clauses (*articles*) but this is generally unnecessary. It must not be expressed as a direct order to the Government, but as a statement of the wishes of the Assembly. The phrase generally used to introduce these wishes is "The National Assembly invites the Government to . . ." On presentation (or on being received from the Assembly of the French Union, provided it is found to be in order)¹ the Proposal is referred to the appropriate committee. Proposals for Resolutions are also sometimes initiated in a committee, and presented to the Assembly in a report, usually with a request for Urgent Discussion.

If the Proposal for a Resolution is reported by the committee (and many are never reported), it has then to be considered in the Assembly, going through the same stages as a bill, though normally the discussion will be a comparatively simple matter. The procedures of Urgent Discussion and Voting without Debate may be used. The new rules of Urgent Discussion (described in Chapter VIII) have, however, probably made it more difficult than previously for a Proposal for a Resolution to be passed under this procedure. The proceedings end with the Vote on the Whole Proposal. If this is favourable, the Proposal has been adopted and becomes a Resolution. It is not sent to the Council of the Republic, since it is intended to express the views of the Assembly only, nor is it promulgated, since it does not constitute law.

The Proposal for a Resolution is much used by Deputies for making suggestions to the Government for administrative action, or for the introduction of legislation². No formal distinction is laid down as to when these purposes are best carried out by a Proposal for a Resolution, and when a Reasoned Order of the Day following an Interpellation would be more appropriate. In practice, however, there is a clear

¹ To be in order a Proposal for a Resolution transmitted from the Assembly of the French Union must relate to legislation connected with overseas territories. The President of the National Assembly is competent to judge whether or not it is in order, but if in doubt may refer the question to the Assembly itself.

² The following is a typical example of such a Resolution. It was passed "without Debate" on 17th June, 1947.

"The National Assembly invites the Government to improve the measures taken to discover the whereabouts of Frenchmen who may be still in captivity in allied countries and to bring them back to France" (V R, 17th June, 1947, p 2137)

difference in the use of the two procedures A Proposal for a Resolution is seldom made the vehicle for a highly controversial suggestion, and the fact that it must be considered by a committee before it is debated is a deterrent against its use in the case of a matter of immediate importance¹ In fact, though many such Proposals are presented in the course of a session, those which survive the committee stage seldom give rise to any but a brief discussion, and many are adopted without debate In the period from 28th November, 1946 to 6th January, 1948, 649 Proposals for Resolutions were presented by Deputies, and one was received from the Assembly of the French Union. The great majority of these were Proposals of the kind described above The number adopted was only 124, or about one fifth,² and of these 70, or more than half, were passed without debate.

Besides the function of conveying suggestions to the Government, the Proposal for a Resolution has also a distinct and very old use, for the internal purposes of the Assembly It is the proper form in which to put forward any suggestion which, if adopted, will only bind the Assembly itself The modification of Standing Orders, for example, is always carried out by Resolution. It is also in this form that the Assembly from time to time expresses its sympathy with a foreign country or with the victims of a disaster at home³ Finally, it is through Resolutions that the Assembly gives its decisions as to whether the time constitutionally allowed to the Council of the Republic to consider a bill shall or shall not be extended.

IV. QUESTIONS TO MINISTERS⁴

1. General

The Question (*question*) is a form of procedure through which the Assembly can exercise detailed control of administrative

¹ Exceptions to this rule sometimes occur On 16th July, 1947, for example, during the discussion of a Government bill regulating civil servants' salaries, one of the parties in the Government presented, with a request for Urgent Discussion, a Proposal for a Resolution suggesting higher figures than those in the bill On this occasion the procedure was used as a political manoeuvre of some importance.

² Figures for 1948 and 1949 show that this is probably about the average proportion In 1948, 531 Proposals for a Resolution were presented, 146 of them being agreed to, in 1949, 566 were presented, 106 of them being agreed to

³ Such Proposals for Resolutions, when unanimously supported, are sometimes discussed and passed immediately after presentation and a purely formal reference to a committee See, for example, the proceedings on a Proposal for a Resolution expressing sympathy with the victims of the Whitehaven Colliery disaster (V R , 19th August, 1947).

⁴ S.O.'s. 94 to 97.

action It may be asked either for an oral or a written answer. The two kinds of Question are known as Oral Questions (*questions orales*) and Written Questions (*questions écrites*) respectively, although in both cases the terms of the Question itself must be handed in writing to the President of the Assembly, by whom they are communicated to the Government. Questions must be drafted in summary form, and may not contain any personal imputation against a third party mentioned by name. There are no other special rules about their form or contents; but, by its nature, a Question must have some relevance to the functions of the minister to whom it is addressed.

The asking of a Question is a personal act. A Question cannot therefore be put in the name of more than one Deputy.

2. *Oral Questions*

Provision for the asking of Oral Questions was first made by Standing Order in 1852. At first they were only permitted in connection with the discussions on the budget bill; but since 1870 they have been allowed at any time in the year. The rules in force under the Third Republic were different from those of today in several respects. The complete text of an Oral Question did not have to be presented in writing beforehand. It was merely necessary for the questioner to warn the minister concerned, giving him an indication of the subject of the Question in a form similar to the description of an Interpellation. The Standing Orders in 1936 provided that not more than two Oral Questions could be put down to be asked at the end of the sitting on any Tuesday or Thursday. The questioner could take a quarter of an hour to expound his Question, and after the minister's answer he had the right to make a reply lasting not more than five minutes. Thus the asking and answering of an Oral Question really constituted a short debate limited to two persons, and the opportunities for asking such questions were very restricted. In the Provisional Consultative Assembly at Algiers new rules were introduced, with the admitted intention of making French procedure more like that of the House of Commons.¹ There remain, however, very considerable differences between the two.

Under the present Standing Orders Oral Questions must be presented in writing and cannot be put down for answer

¹ "This procedure is sensibly different from those known to the French Parliament (sc. up to 1940) . . . It has been created in imitation of the procedure used in the British Parliament . . ."

sooner than a week after presentation. They are recorded, in order of presentation, on a roll (kept on behalf of the President). One sitting a month is reserved for their asking, in addition to which ten questions are to be put down, according to the order in which they stand on the roll, at the head of the Orders of the Day on every Friday. In the congested sessions since 1946 it has happened more than once that the Assembly—"always retaining control of its Orders of the Day"—has appropriated all the time on a Friday to other business.

The texts of Questions are printed in the Orders of the Day for the appropriate sitting. Proceedings upon them start, not with an explanatory speech by the questioner, but, as in the House of Commons, with the minister's answer. The questioner, or a Deputy delegated by him, may reply, his speech must keep strictly within the limits of the original Question and may not last longer than five minutes, a limitation which has come to be applied also to the minister's answer. If neither the questioner nor a Deputy delegated by him are present the Question is put at the bottom of the roll. If the minister concerned is absent, the Question is put down for the following Friday; if, after two absences, he is again absent when the Question is put down for the third time, the questioner may transform the question into an Interpellation and present forthwith an Order of the Day to be voted upon.

The sittings which the Assembly devotes to Oral Questions arouse very much less interest than does "Question Time" in the House of Commons. The comparatively long time allowed to the minister and to the questioner, and the rule that no other Deputy may speak, leave no opportunity for subtle "supplementary" and quick repartee. The new rules have certainly made the Oral Question a more useful, and a more used, procedure than it formerly was. Even so, however, only seventy-two questions were answered orally in the period from 28th November, 1946 to 6th January, 1948.

3. *Written Questions*

The procedure of the Written Question was first introduced in 1909, and is now used considerably, and very much more frequently than that of the Oral Question. The weak point in it has proved to be the difficulty of compelling ministers to answer such Questions when they do not wish to, and the rules concerned were recently revised with a view to making ministerial evasion more difficult.¹

¹ By a Resolution passed on 1st July, 1949, amending S O s 94 and 97

A Question for written answer is published immediately after presentation, as an appendix to the Verbatim Report. It is published again with the answer when this becomes available. The minister concerned has in principle one month in which to have his answer published. He is entitled to publish a statement to the effect that, in the public interest, he is prevented from replying, or, as an exceptional matter, to ask for an additional period of not longer than a month in order to obtain the material for his answer. If, however, the Question has not been answered by the end of the original period of one month following its presentation, or of any exceptional extension of this which may have been granted, the questioner has the right to convert it into an Oral Question, and it is the duty of the President of the Assembly, as soon as the period concerned has expired, to request the questioner to let him know whether he wishes to do this or not. If the questioner does so wish, the Question is entered on the roll of Oral Questions, in the position which it would have occupied there had it been presented as an Oral Question on the date on which it was in fact first published in the Verbatim Report as a Written Question. If the questioner does not wish the Question to be so converted it remains a Written Question, the minister being allowed a further period of one month for his answer.

Besides its publication on presentation and when the answer is given, a Written Question, if not yet answered, is reprinted as an appendix to the Verbatim Report at the end of the month following its presentation, at the end of the second month allowed thereafter in the event of it not having been converted into an Oral Question, and at the end of any additional period which may have been granted in answer to a request by the minister. A list of Written Questions with the answers to them, classified according to subject matter, is published separately every six months, and distributed to Deputies.

Between 28th November, 1946 and 6th January, 1948, 4,367 Questions were put down for written answer, 664 of which were still to be answered at the end of that period. Both Questions and answers tend to be longer and more complicated than is customary in the case of questions for written answer in the House of Commons.

V. PETITIONS

The right of citizens to present Petitions (*pétitions*) to the Legislature has been recognized since the early days of the

Revolution. It was totally suppressed for a time under the First Empire, and for most of the Second Empire Petitions might be presented to the Senate only. The right was not specifically laid down under the constitutional laws of the Third Republic, nor is it mentioned in the present Constitution. In both periods, however, its existence has been recognised by ordinary law.¹ It is considered to be a natural right, which exists so long as it is not specifically withdrawn.²

The Assemblies of the revolutionary period allowed petitioners to present Petitions in person at the bar of the chamber, and suffered much inconvenience at times from the arrival of large numbers of petitioners and presenters of addresses, who were permitted to march in procession through the chamber. Since 1814, under successive Standing Orders of Lower and Upper Chambers, all Petitions have had to be presented in writing, and it has been forbidden to bring them to the bar. It has also been the rule since 1851 that a Petition presented by a crowd gathered on the highway may not be received by the President nor laid upon the Table. These rules are supported by the sanction of the law, which imposes penalties in the case of the infraction of those concerning gatherings on the highway.³

From 1814 to 1830, Petitions had a different kind of political importance, since they could be made the occasions of debates which to some extent enabled Deputies to get round the prohibition on the proposal by them of legislation and the moving of Interpellations. When under the July Monarchy the right of Deputies to do both these things was admitted, this use of Petitions naturally disappeared. Since that period the general rules concerning Petitions have altered little, though they have been varied from time to time in regard to the nature of the committee to which Petitions have been referred. Petitions are now no longer used for making public the views of citizens or Deputies on important matters, but simply as vehicles for individual complaints, usually about some minor official action, or failure to act, on the part of a Ministry or some other branch of public administration.

Under the present rules a Petition may be presented either

¹ See clauses 6 and 7 of the Act of 22nd July, 1879, "concerning the establishment of the seat of the Executive Power and of the Chambers in Paris", which have been re-enacted with slight modification in Act No 50-10 of 6th January, 1950 already referred to. The latter enactment specifically recognises the right to present petitions, under identical conditions, to the National Assembly, the Council of the Republic and the Assembly of the French Union.

² See Pierre, § 579

³ See Act No 50-10 already referred to

by being sent by the petitioner himself to the President of the Assembly (the more usual way) or by being laid upon the Table on his behalf by a Deputy, who must add a signed note recording his presentation of it. The petitioner must himself sign the Petition and give his address. His signature must be legally authenticated, or if such authentication has been asked for and refused, a note of the fact must be made at the end of the Petition.

Petitions, when received, are recorded, with a summary description, and numbered in the order of their arrival, and are sent by the President to the Committee on the Franchise, the Standing Orders and Petitions. They are available for inspection by any Deputy. Four courses of action are open to the committee. It may refer a Petition to a minister, it may refer it to another committee, it may submit it to the Assembly, or it may simply classify and record it. The decisions of the committee are announced in a monthly publication called the Order Book of Petitions (*le Feuilleton des Pétitions*), with brief details of the Petitions and of the committee's reasons for its action. A Deputy may then ask for a Petition to be reported upon in the Assembly; but if no such request is made within eight days of the distribution of the Order Book of Petitions in which they are published, the decisions of the committee become final, and are published in the Official Journal (as an appendix to the Verbatim Report).

In practice the course almost invariably followed by the committee is to refer the Petition to the minister most closely concerned. His answer should be given in one month, and is announced in the Order Book of Petitions and the Official Journal.

In the period from 28th November, 1946 to 6th January, 1948, seventy-five Petitions were examined by the committee. In each case the proceedings ended with the publication of the decision of the committee in the Official Journal.

Chapter Eleven

THE COUNCIL OF THE REPUBLIC

I. GENERAL CHARACTERISTICS AND ORGANISATION

WHILE THE composition and powers of the Council of the Republic differ considerably from those of the National Assembly, with certain consequential differences of procedure, the basic organisation of the two Chambers is much the same. The Constitution makes the Council the sole judge of the validity of the election of its members (art. 8); ensures to them the same Parliamentary Immunity as to Deputies (arts 21 and 22) and guarantees them a salary (art. 23); and directs the Council to elect its own Bureau by proportional representation. Ordinary law confers upon the Council the same complete financial autonomy as is enjoyed by the Assembly; gives to its President the same duties and rights in regard to the security of his Chamber; and puts Senators in the same legal position as Deputies in regard to incompatibility, and to pay, pensions and military service.¹

The periods in which the Council may sit are controlled by the dispositions of article 9 of the Constitution, which lays down that it sits "at the same time as the National Assembly". This does not mean that the Council can only hold sittings (*séances*) at precisely the same moments as those of the Assembly, but that it must open, close and interrupt its sessions (*sessions*) ordinary or extra-ordinary, on the same dates as does the Assembly. In practice, these dates are, in each case, communicated in advance by the Assembly to the Council, and in announcing the receipt of such a message the President of the Council simply states that the Council will conform to the action of the Assembly.

The Standing Orders of the Council state that it shall sit on Tuesdays and Thursdays and, when necessary, on Fridays.² For a considerable portion of each session the Council tends to

¹ The law was recently restated, with minor amendments, in regard to all these matters in Act No. 50-10 of 6th January, 1950, "amending and codifying the law relating to the Public Powers".

² S O (C R) 38

observe this rule, and also seldom holds more than a single sitting a day. It thus sits less frequently and for shorter periods than the Assembly—as might be expected of a smaller body, much of the time of which is spent considering legislation which has already been discussed in the First Chamber. On the other hand, the Council is to some extent at the mercy of the Assembly. It may suddenly be called upon to sit long hours and on unusual days to consider urgent measures, or to suspend a sitting, while waiting for bills to come from the Assembly. At times it has sat on all days of the week, and all through the night.¹

The Constitution (art. 10) makes the same requirements as it does of the Assembly for the publicity of the sittings of the Council. The Verbatim Report of the Council's proceedings is published in the Official Report, in a separately numbered series. The interior administration of the Council is in general conducted on similar lines to that of the Assembly.

The Members of the Council were at first styled "Councillors of the Republic" (*Conseilleurs de la République*). On 16th December, 1948, however, by Resolution No. II-10, they took to themselves the title of "Senators, Members of the Council of the Republic" (*Sénateurs, membres du Conseil de la République*).

II. THE LUXEMBOURG PALACE

The seat of the Council of the Republic is the Luxembourg Palace (*le Palais du Luxembourg*). This building takes its name from François de Luxembourg, whose private mansion (*hôtel particulier*) still stands in the neighbourhood of the Palace (forming part of the Petit-Luxembourg). This house and its grounds were bought in 1612 by Marie de Médicis, widow of Henry IV. She let the house to Richelieu and in 1615 commissioned the architect Salomon de Brosse to build her a palace, which was completed about 1630. It became, and remained, known as the Palais du Luxembourg.

Between about 1625 and the Revolution various royal personages inhabited the palace. Under the Convention it was for a time used as a prison and held many distinguished captives, both members of the Old Regime and revolutionaries. In 1795

¹ On Saturday, 29th November, 1947 (during the crisis caused by the general strike) the Council met at 2.30 p.m., and sat, with some suspensions, till 2.55 a.m. on Sunday morning. It met again at 4 a.m., and the proceedings of Sunday, 30th November, were divided into five sittings, which ended at 2.10 a.m. on Monday morning. The sitting of Monday, 1st December, began at 10.30 a.m., and lasted (with suspensions) till 3.55 a.m. on Tuesday morning.

it was made the palace of the Directory and in 1799 of the Consulate. In 1800 it became the meeting place of the *Sénat-conservateur*, and from 1815 to 1848 was used by the Chamber of Peers. Under the Second Republic there was, of course, no Second Chamber, but Napoleon III installed his Senate in the palace, where it remained till 4th September, 1870. The Senate of the Third Republic sat there from 1879, when it moved from Versailles to Paris, until 1940. It was there that the Provisional Consultative Assembly met after it had moved to France in 1944. Under the Constituent Assemblies the palace was not used, but it became once more the home of the Second Chamber of France when the Council of the Republic held its first meeting there on 24th December, 1946. It was specifically allotted for the use of the Council by law in 1950.¹

The Palais du Luxembourg, although it is not entirely to-day as de Brosse built it (considerable alterations and additions having been made in the reigns of Napoleon I and Louis-Philippe), is characterised by much greater regularity and uniformity than is the collection of buildings which forms the Palais Bourbon. It is said to show some resemblance to the Pitti Palace in Florence, in which Marie de Médicis had been born. The main entry is through the northern facade, which is about one hundred yards broad and faces due north on to the rue de Vaugirard. South of this, the building forms a regular rectangle, some hundred and fifty yards long, enclosing a large courtyard. The southern side looks out upon the Luxembourg Gardens, originally laid out in the 17th century.

The principal rooms of the Council are on the first floor of the southern side. Here Marie de Médicis had had her great gallery, decorated with many paintings by Rubens and others, most of which are now in the Louvre. This gallery was later pulled down. The great staircase which now leads to this floor was built under the Consulate. The present Chamber was built for the Peers in the reign of Louis-Philippe. It is somewhat smaller than that of the Assembly. Its arrangement is exactly the same except that, instead of sitting on benches, each Senator has his separate armed chair (*fauteuil*). The elegantly furnished and decorated lobbies and library occupy the surrounding rooms.

The President of the Council lives in the Petit-Luxembourg, a smaller building on the rue de Vaugirard immediately west of the palace. This consists of the original *hôtel* of François de Luxembourg, and of additions built by Richelieu and other

¹In clause 2 of Act No 50-10 already referred to

later occupants Richelieu lived there while his larger palace, now the Palais Royal, was being built. It was joined to the precincts of the greater Luxembourg in 1779.

III. COMPOSITION AND ELECTION OF THE COUNCIL

The Constitution requires¹ that members of the Council of the République, like Deputies, are to represent territorial constituencies and are to be chosen by universal suffrage. Unlike Deputies, however, they are not to be elected directly, that is, by the votes of the electors themselves, but indirectly, by the votes of the electors' representatives in the *communes* and Departments (*les collectivités communales et départementales*) with a further proviso that up to one-sixth of the number may be chosen by the National Assembly, by proportional representation. The total number of Members of the Council must not be less than 250, nor more than 320. The Council is eventually to be re-elected half at a time but the first Council was to be wholly re-elected within two years of the promulgation of the Constitution² and was in fact re-elected on 7th November, 1948. All other details were left to be fixed by ordinary law.

The first Council was elected towards the end of 1946, under an act which applied to that Election only.³ It provided for four categories of members of the Council as follows:

- (1) 200 to be elected by the local government bodies of mainland France,
- (2) 50 to be elected by the National Assembly, in such a way as to ensure as nearly as possible exact proportional representation of parties in the whole Council in accordance with the distribution of seats in the first group,
- (2) 14 to be elected by the local government bodies of Algeria; and
- (4) 51 to be elected by the Councils-General (the departmental local government bodies) of the overseas Departments and the territorial assemblies of the other overseas territories.

There was thus to be a total membership of 315. The whole of the Members for the seats in Group (1) and the greater part of those for the seats in Group (2) were elected under the system of voting for lists by proportional representation. In the

¹ Art 6

² Const., art 102

³ Act No 46-2383 of 27th October, 1946, completed by Act No 47-25 of 7th January, 1947

constituencies of Group (4) the system used was that of electing individual candidates by a majority, with two ballots if necessary (an absolute majority being required at the first ballot).

These arrangements were considerably altered by the act passed before the election of the second Council.¹ This laid down the system not only of the elections of 1948, but also for those of the future (though, of course, these can always be modified by Parliament). The total number of seats was raised from 315 to 320. The period for which Members of the Council are to hold these seats was fixed at six years. The periodical renewals of half the Council at a time, for which the Constitution provides, will thus take place every three years. For the purpose of such partial re-elections, the act divides the seats into two series, A and B, each of 160 seats (those of mainland France being exactly divided,² and those of the other territories being as closely as possible balanced, between the two series). Each series will be re-elected in turn. The decision as to which should be re-elected first was left by the act to be determined by drawing of lots, to be carried out by the Bureau of the Council in the chamber during a sitting. The first partial re-election is to take place in May, 1952, the second in May, 1955, thereafter, one or other series will be re-elected every three years. A person elected to the Council holds his mandate as from the third Tuesday following his election, at which date the mandate of the previous holder of his seat expires.

The members of the Council have, under the 1948 act, been divided for electoral purposes into six categories, as follows

- (i) 253 *Members representing the Departments of mainland France, and of Guadeloupe, Guyana, Martinique, and Réunion.* The seats in this group are allotted to the Departments at the rate of one seat to the first 154,000 inhabitants (or for any smaller total number of inhabitants) and one more seat for every additional 250,000 inhabitants, or fraction of that number. The number of seats actually allotted to each Department varies from one to nine, apart from the Department of Seine, which has twenty. The voters in each Department consist of an electoral college (*un collège électoral*), composed of (i) the Deputies of the Department, (ii) the Councillors-General (*conseillers généraux*), that is

¹ Act No 48-1471 of 23rd September, 1948, completed by the administrative provisions made in Decree No 48-1478 of 24th September, 1948.

² The departmental constituencies are divided alphabetically, those of Ain to Marenne being in series A, those of Meurthe-et-Moselle to Yonne in Series B

the members of the Council-General (*conseil général*), the local government body of the whole Department, corresponding very roughly to a county council; and (iii) delegates elected by members of the Municipal Councils (*conseils municipaux*), the local government bodies of the *communes*¹

For the selection of the delegates forming the third group, a preliminary election is necessary. Three weeks must elapse before the holding of the main elections. At these, two methods of voting are used, according to the number of seats allotted to the constituency. In those constituencies returning four or more members, the method used is that of voting for a list of candidates (*scrutin de liste*), under a system of proportional representation similar in general to that used at the elections for the Assembly in 1946. Where less than four members are to be returned, the method of voting for individual candidates (*scrutin uninominal*) is used, with two ballots (held on the same day) if necessary. To be elected at the first ballot a candidate has to receive a clear majority of all votes cast. At the second the seats, other than those (if any) won at the first, are allotted to candidates in the order of their election.

- (2) 14 Members representing the Departments of Algeria Of these, seven are elected to represent each of the electoral colleges (*collèges*) described in chapter III. In the case of each college the seats are distributed among the three Departments and the elections are performed by local bodies, again called colleges, consisting of the local Deputies and Councillors-General and various other local representatives of the electoral college concerned. A person otherwise qualified to be a candidate may stand for election by either electoral college, no matter to which he himself belongs. The method of election used is that of voting for a single candidate, under the same conditions as in mainland France.

¹ The number of delegates allowed to the Municipal Councils varies according to the size of the Council and the number of inhabitants in the *commune*. In *communes* of less than 9,000 inhabitants, the number of delegates varies from one, in the case of Municipal Councils with eleven members, up to fifteen for those with twenty-three members. In *communes* with over 9,000 inhabitants, all the Municipal Councillors are delegates. Those with over 45,000 inhabitants may in addition elect one extra delegate for every 5,000 or fraction of 5,000 inhabitants over 45,000. A Deputy, or a Councillor-General, may not act as a delegate, and if elected to be a delegate, must have a substitute appointed. The nature of a *commune* is described on page 26.

- (3) 44 representing the Overseas and Mandated Territories. The seats of this group are distributed among nineteen colonial territories (giving them between one and five seats each) and two mandated territories (the Cameroons and Togo). The electors in each territory consist of the members of its local assembly and its Deputies to the National Assembly. In some cases there are two colleges of electors (see chapter III). In those cases where a constituency, or one college of it, elects less than three members, voting is for an individual candidate, where three members or more are elected, voting is for a list by proportional representation.
- (4) 1 member representing Frenchmen resident in Indo-China. In 1948, as a provisional arrangement, this member was elected by the National Assembly. It was anticipated that a further act would in due course lay down permanent provisions for this constituency.
- (5) 5 members representing French citizens resident in Tunisia and Morocco. In Tunisia, two members are elected by the French members of the Grand Council of Tunisia and of certain of the Municipal Councils. The election is held by correspondence, the counting of the votes being done in Paris. The three members for Morocco are elected by the National Assembly from among candidates submitted either by French members of the Moroccan Council of Government, or by political groups which have previously had members representing Frenchmen in Morocco in the Council of the Republic. In the case of both protectorates, voting is for individual candidates.
- (6) 3 members representing French citizens resident abroad. These are elected by the National Assembly out of candidates to be submitted by four associations of Frenchmen abroad.¹ Voting is for individual candidates.

There are two noticeable differences of principle between the act of 1946 and that of 1948. Firstly, in 1946 the Assembly exercised its right to elect up to one sixth of the members of the Council almost to the full (electing 50 members out of 315), and in such a way as to bring about almost exactly the same balance of parties in the Second as in the First Chamber. In 1948, however, the use of this right was limited to the election of

¹ These are *l'Union des Français à l'Etranger*, *l' Union des Chambres de Commerce Françaises à l'Etranger*, *la Fédération des Professeurs Français résidant à l'Etranger*, and *la Fédération Nationale des Anciens Combattants résidant hors de France*

seven members (one of whom was so elected as a provisional arrangement only). The balance of parties in the re-elected Council was thus little affected by the votes given in the Assembly, and proved in fact markedly different from that obtaining in the latter at the time of the elections. The second difference is that considerably less use is now made of the system of voting for lists by proportional representation, and correspondingly greater use of that of voting for individual candidates. This change is perhaps significant of the form which electoral procedure may in future take in the case of other bodies.

In certain important general provisions, however, the act of 1948 has made no change from that of 1946. Both acts fixed the minimum age of candidates as thirty-five. All rules as to ineligibility and incompatibility which, under the general law, apply to elections to the Assembly, are extended to elections to the Council. Candidature by the same person in more than one constituency is forbidden.¹ The act of 1948 also includes provisions of the kind normal in French electoral acts, relating to the presentation of declarations of candidatures, the making of precautionary deposits of money by candidates, and the allotments of paper for propaganda purposes. The electors are entitled to be repaid their travelling expenses, if any, and are liable to a small fine (3,000 francs) if they fail to vote.

The act of 1948 also provides for the procedure at by-elections, caused by the death or resignation of a Member of the Council or the invalidation of his election. In those Constituencies where voting for individual candidates is used at the general election, the same method is used at a by-election. Where voting is for a list, the seat is given to the highest unsuccessful candidate on the list to which the member vacating the seat belonged.

IV. THE PROCEDURE OF THE COUNCIL

I Basis and General Characteristics

When the first Council of the Republic met at the Luxembourg on 24th December, 1946, it possessed no written basis for its procedure. The adoption of the Standing Orders of the former Senate was out of the question, the difference between the constitutional positions of the two bodies, and the political associations attached to the memory of the Senate, alike made

¹ Under the Third Republic multiple candidature was permitted in the case of elections to the Senate

this impossible. Nor were the new Orders of the Assembly yet complete. The essential elements of procedure, however, which must inevitably be used in any French parliamentary assembly, were clear and well known, and many of the members and officials of the Council had had experience of their working, either in the Chambers of the Third Republic or in the two Constituent Assemblies. There was therefore a firm base of tradition from which to start.

The first meeting was consequently a short and business-like affair. The "Age Bureau" was installed, and after the "Age President" had made the introductory speech expected of him, three resolutions were passed fixing the procedure for the first three essential pieces of organisation—the Verification of Credentials, the election of the permanent Bureau and the setting up of a committee of twenty-five to draw up Standing Orders. The Proposals for these three Resolutions had been introduced by the leaders of all the parties, and were passed forthwith, without discussion, and with no previous reference to committee, since no committees yet existed.

The Verification of Credentials and the election of the Bureau were carried out under the procedure of the Assembly, suitably modified. The second event, however, was followed almost at once by the end of the session, so that a new Bureau had to be appointed when the session of 1947 was opened on 14th January. By this time the Committee on Standing Orders was ready to make its first report. This was discussed on 21st January, and its conclusions, covering the organisation of committees (an essential starting point for the work of the Council) were adopted. A second report was considered on 28th January, and a number of articles covering various items of organisation were agreed to. On 31st January, the Council decided by resolution that, until the completion of its own Standing Orders, it would, on all points not yet regulated, follow those of the second Constituent Assembly, except where these did not conform to the Constitution. This arrangement worked smoothly. The Committee's third report (covering, among other matters, the bulk of legislative procedure) was debated on 25th March, and its fourth and last (which included the procedure on Questions) on 5th June, on which date the whole body of the Standing Orders was finally adopted. They had aroused little discussion, except on two points, which are referred to below.

These Orders were based on those of the National Assembly. The latter had, of course, only just been drawn up, and the Council's committee had had to some extent to wait upon the

work of the First Chamber¹. The procedure which they laid down was to a great extent identical with, or very similar to, that of the Assembly, with certain differences arising out of the different constitutional position of the Council. In certain passages the Council preferred a different drafting of orders with the same effect as those of the Assembly, or made minor alterations of its own volition.

During the first two years of its existence, the Council made amendments to its Standing Orders on several occasions. The most important of these alterations were those which arose out of the constitutional dispute between the two Chambers, described on pages 263-4. Soon after its re-election in 1948, the Council made the amendment to Standing Order 1 necessary to bring about the change of the style of its members to that of "Senators, Members of the Council of the Republic". The Committee on the Franchise, Constitutional Control, the Standing Orders and Petitions then undertook a general revision of the Standing Orders. This resulted in the adoption by the Council of a number of amendments, which were embodied in a resolution agreed to on 14th June, 1949.

Some of these amendments were of a minor or consequential nature. Others were introduced with a view to speeding up the proceedings of the Council. Two other innovations, however, were of a much more far reaching character, and were introduced by the new majority in the Council with the intention of extending the scope and enhancing the prestige of the Second Chamber as far as the limits set by the Constitution would permit.² Amendments to Standing Orders 88-91, as described on pages 268-9, make the form of procedure of the Oral Question without Debate little different in form from that of the Interpellation. By another amendment, to Standing Order 20, described on pages 259-60, the Council sought to take to itself the right to refer bills presented by its Members directly to its own committees, before sending them to the Assembly. In this attempt, however, the Council found that it had overstepped the constitutional mark, and it was soon forced to abandon the new procedure. The general effect of these amendments is to bring the procedure of the Council still closer to that of the Assembly.

¹ "The National Assembly itself is in course of giving itself new Standing Orders. It is not progressing very fast, and we must follow it in this path, still, we must retain the structure of its Standing Orders, whatever opinion we may have of them" M. Salomon Giumbach, Reporter of the Committee on Standing Orders, V.R. (C.R.), 21st January, 1947, p 6

² See the introductory remarks of the Reporter of the Committee on the Franchise, &c., V.R. (C.R.), 9th June, 1949, p 1373

There remain, however, some inevitable and important differences.

2. General Differences between the Procedures of the two Chambers

Some of these differences are the natural consequences of the different methods of election used for the two bodies, and of their different composition and size. For the Verification of Credentials only six *bureaux* are set up. The Council also has a smaller Bureau, appointing only four Vice-Presidents and eight Secretaries. The General Committees have only thirty members each and are nominated afresh at the beginning of each session. In most cases in which a proposal is required to be supported by a certain number of members, the number needed in the Council is smaller, in general, where the numbers specified in the Orders of the Assembly are fifty and twenty-five, in those of the Council they are thirty and fifteen respectively.

The remaining, and more substantial, differences between the procedures of the two Chambers are all, in different ways, consequential upon the weaker constitutional position of the Council, or upon the fact that it receives legislative proposals only after they have been discussed in the Assembly. No provision is made for the discussion of Motions of Investiture, of Questions of Confidence or of Motions of Censure, since these cannot arise in the Council, to which the Government is not responsible. Nor do the Standing Orders contain any reference to the Economic Council or the Assembly of the French Union, since the Constitution does not provide for any contact between the Council of the Republic and either of these bodies.

3. The Rules of Debate

The debates of the Council of the Republic are conducted according to the principles which, as described in Chapter VI(I) are common to all discussion in French parliamentary Assemblies. The written rules of debate are for the most part taken word for word from those of the Assembly, with the necessary modifications referred to in section (2) above. Two amendments, made by the Resolution of 14th June, 1949, do, however, introduce two minor measures of curtailment which the Assembly has not so far adopted. A Member making an observation on the Minutes must now limit the length of his remarks to five minutes;¹ and a Reporter, when presenting a report which has been distributed to members, must confine himself to comment-

ing upon it, without reading the text.¹ It may also be mentioned that the organisation of a discussion, which may otherwise be decided upon under the same rules as in the Assembly, has recently been made compulsory in the case of a Debate on an Oral Question.

The Council uses all the same methods of voting as does the Assembly, under almost identical rules. On 30th November, 1947,² the Council followed the example set by the Assembly on the previous day (see page 144) in imposing, though not in the same terms, a limitation of the number of occasions on which a Vote by Open Ballot at the Tribune can be requested. This limitation applies in the Council only during a debate on a bill or a Proposal for Resolution, and consists of the provision that, in the course of such a debate, only one request for an Open Ballot at the Tribune may be presented by members of any one political group.

4. Legislative Procedure

(1) Bills presented by Senators

The manner in which the Council carries out its legislative business is controlled by the conditions of articles 14 and 20 of the Constitution. In accordance with the former article, a bill presented by a Member of the Council is transmitted without debate to the National Assembly (though it is first printed and distributed in the Council)³ and is first considered in the First Chamber. The Member who introduced the bill may withdraw it while it is still in the Assembly.³ The first paragraph of article 20 lays down that "the Council of the Republic examines, in an advisory capacity (*pour avis*), bills which the National Assembly has passed at First Reading". It is not, therefore, until after a bill has been adopted in the Assembly and transmitted to the Council, that the latter can begin to consider it.

In 1949, however, the majority in the re-elected Council in the course of their efforts to "strengthen the authority" of their Chamber, attempted to extend its legislative powers still further. An amendment to Standing Order 20 was passed, providing that a bill presented by a Senator should normally be referred forthwith to the appropriate committee of the Council, and that only when reported upon should it be transmitted, with the

¹ S.O. (C.R.) 55

² S.O. (C.R.) 20

³ S.O. (C.R.) 21

report, to the Assembly, though the Senator, or Senators, promoting the bill retained the option of requesting its immediate transmission to the Assembly, either on its presentation or if the committee failed to report within the proper period. The supporters of this amendment held that such a procedure would enhance the prestige of the Council and cause the Assembly to give greater consideration to bills originated by Senators, while at the same time rendering the Council a more valuable assistant to the Assembly. It was argued that the words of article 14 of the Constitution, which require that bills presented by Members of the Council shall be "transmitted without debate to the Table of the National Assembly" only amount to a prohibition of preliminary debate in the chamber of the Council, and that preliminary consideration in committee would be perfectly constitutional.¹

The amendment to Standing Order 20 was one of those contained in the Resolution of 14th June, 1949. The Council proceeded to put the new procedure into practice. The Assembly, however, was not prepared to accept it. Its Committee on the Franchise, the Standing Orders and Petitions, came to the conclusion that the words of article 14 of the Constitution were intended to mean that every bill presented by a member of the Second Chamber should be sent at once, without any form of preliminary proceeding there, to the First Chamber, and that in consequence the new procedure proposed by the Council was unconstitutional. The Assembly agreed (in a resolution passed on 28th June, 1949) to an amendment to its own Standing Order 20, making it clear that it would not accept any bill presented by a Senator which had been the subject of any form of proceeding in the other Chamber and that the duty, which it had already entrusted to its President, of deciding whether such bills were in order to be received (*recevable*), was specifically related to this point.² The Council then gave up the attempt to exercise a preliminary control over bills presented by its Members, and reverted to the original procedure, which would seem to be in accordance with the intention of the makers of the Constitution, of sending all such bills at once to the Assembly. This proceeding is acknowledged in the Verbatim Report in which, following the record of the presentation of the bill, there is added the statement that "in conformity with article 14 of the Constitution, it will be transmitted to the Table of the National Assembly".

¹ See V R (C R), 9th and 14th June, 1949

² See V R, 28th June, 1949

(ii) Normal Procedure on Bills received from the Assembly

A bill which has been passed through all its stages in the Assembly must, when received by the Council, pass through a corresponding series of stages there.¹ It is referred at once to the appropriate committee, reported upon, considered in the Chamber first in a General Discussion and then clause by clause, and finally submitted to a Vote on the Whole Bill. Provision is made for Voting without Debate, under the same conditions as in the Assembly.² At the beginning of the Discussion of Clauses, and of the consideration of any Counter-Bill (*contre-projet*) which may have been presented, the Government is entitled, if it so requests, to have prior consideration given either to the original text presented by it to the Assembly (in the case of a Government bill) or to the text as passed by the Assembly. It has a similar right in respect to each clause or Chapter of Credits when it comes up for consideration.³ The Separation (*disjonction*) of an amendment is not permitted, since this procedure entails the treating of the amendment concerned as if it were a separate bill, and since such a bill would not have passed through the Assembly, a committee of the Council would not be entitled to consider it. The separation of part of the text received from the Assembly (that is, of a clause or of a Chapter of Credits) is in order.⁴

The Vote on the Whole Bill is technically a vote on the adoption or rejection of the complete text of the Advisory Report (*avis*) which, under article 20 of the Constitution, the Council has to give upon the bill. When the Council has agreed to the text of a bill as received from the Assembly, this report is said to be in conformity (*conforme*). If the Council suggests amendments, the report is said to be not in conformity (*non conforme*). The Standing Orders of the Council also allow for the making of a report unfavourable (*défavorable*) to the whole bill. If, after the Council has proposed amendments to a bill, the vote on the report is passed by the absolute majority of its members, the President must announce this fact when declaring the result of the vote, since in such a case the Constitution requires a similar majority to validate the Vote on the Whole Bill at the Second Reading in the Assembly.⁵ As soon as the report has been voted on, the President communicates its

¹ S O (C.R.) 55

² S O (C.R.) 34-36

³ S.O. (C.R.), 65

⁴ S O (C.R.) 47

⁵ S O (C.R.) 57

nature to the President of the Assembly and transmits to him the text of any amendments¹ The bill has then passed finally from the Council's control

Throughout the proceedings on a bill in the Council the effect of the time limit imposed by the Constitution is felt.² The Council must make its Advisory Report within two months after receiving the bill from the Assembly, or, in the case of the Budget Bill, within a time not longer than that required by the Assembly (which might well be more than two months). In the case of a bill adopted by the Assembly after Urgent Discussion, this time-limit is drastically curtailed, as will be described below. The Council has therefore directed that within one week of the distribution of a bill the Main Committee shall appoint a Reporter, and shall have its report presented, printed and distributed within one month or any shorter period fixed by the Council. (the corresponding times allowed to committees of the Assembly being two weeks and three months).³ In the case of a bill submitted to Second Deliberation at the request of the President of the Republic, the Committee must report within one week.⁴ If the last week of the two months granted by the Constitution is reached in the case of any bill without a report having been distributed, the bill may be put on the Orders of the Day in spite of this, if such a course is proposed by the President or by ten Senators. If no report has been distributed by the time the bill comes up for discussion, the Council considers the text as received from the Assembly and any amendment proposed to it.⁵

The Council has provided for itself the means of asking the Assembly to extend the period for its consideration of a bill, as the Constitution permits it to do. This is done by a Resolution, the Proposal for which may be introduced by the Main Committee or by any fifteen Senators. In the case of a bill to be considered under normal procedure such a Proposal for a Resolution is automatically accorded Immediate Discussion. In that of a bill to be subjected to Urgent Discussion, it is treated as a Preliminary Motion in relation to the bill. If carried, the Resolution is at once communicated to the Assembly. Once the Council has rejected such a Proposal for a Resolution, it is out of order to propose another in respect of the same bill.

¹ S O (C R) 78

² Const., art 20

³ S O. 29 and S O (C R) 27

⁴ S O (C R.) 22

⁵ S O. (C R) 33

(iii) Accelerated Procedure

Two forms of accelerated legislative procedure are available to the Council, known respectively as Immediate Discussion (*Discussion immédiate*) and Urgent Discussion (*Discussion d'urgence*).

Immediate Discussion¹ is initiated within the Council itself. It may be asked for by the Government, by the Main Committee or by the proposer of a private member's bill. Such a request may be made at any time. One hour must elapse between its presentation and its consideration by the Council, at which the debate is limited. If Immediate Discussion is ordered, the report on the bill may be made verbally.

The procedure of Urgent Discussion must be used by the Council in the consideration of any bill which has been passed by the Assembly under its corresponding procedure. In such a case the Constitution declares (art. 20) that "the Council of the Republic shall make its Advisory Report within the same period (*délai*) as that provided for in the case of the debates in the National Assembly by the Standing Orders of that Chamber". Such a period does not run during the interruptions of the session, and may be prolonged by the Assembly. Doubts as to the meaning of the sentence quoted gave rise, in June, 1948, to the first constitutional dispute between the two Chambers, and to the first cases of the reference of a matter to the Constitutional Committee and of a request for a Fresh Deliberation by the President of the Republic.

In its own Standing Orders the Assembly had determined the period to be allowed to the Council, not by fixing a stated length of time, but by ordering that it should be equal, in the case of each separate bill, to the period which elapsed between the posting of notices of the request for Urgent Procedure and the announcement of the result of the Vote on the Whole Bill. This meant that the Council had to fit the proceedings in committee as well as those in the chamber into the time which the Assembly had occupied in the chamber alone—a varying period, which might be very short. The difficulty which this uncertain procedure was bound to produce arose over a bill which was sent to the Council on 10th June, 1948 after Urgent Discussion in the Assembly. The time available to the Council, according to the Orders of the Assembly, was some thirty-three hours, provided that either the committee concerned or the Council itself sat all the night of 10th-11th June and till after midnight of 11th-12th June. The majority of the Council did

¹ S.O. (C.R.) 58

not consider this enough time for proper consideration and the bill was finally passed only on 15th June. Meanwhile notice had been taken in the Assembly that the bill had not been returned within the time-limit, and the bill had been sent to the Government for promulgation. These events aroused much resentment among many Members of the Council, who considered that in fixing a variable instead of a fixed time-limit, the Assembly had mis-applied the Constitution and produced an unworkable procedure. A resolution was therefore passed by the Council, also on 15th June, charging its President to request the President of the Republic to join him in referring the matter to the Constitutional Committee, with a view to applying to the bill in question the procedure laid down (in articles 91-93 of the Constitution) for a bill alleged to involve revision of the Constitution. This action was taken, and the decision of the Constitutional Committee was announced in each Chamber on 22nd June. The Committee upheld the point of view of the Council and asked the Assembly to lay down a maximum time limit and the Council to adapt its Standing Orders accordingly. To avoid difficulties over the bill in question, it requested the President of the Republic to use his rights to ask for a Fresh Deliberation (which he duly did).

In view of this decision, the Assembly amended its Standing Orders 64 and 66. It fixed a time limit of three days for its own proceedings in Urgent Discussion of a bill, though reserving to itself power to extend this period, and fixed the same time limit (with corresponding extension, if any) for the consideration of such a bill by the Council. If such a debate was not finished within three days in the Assembly, it was to continue under the ordinary procedure, and the Council would consequently not be bound by the three days limit. The Council amended its own Standing Orders 59 and 79 in conformity.¹

Both forms of accelerated procedure have been used with considerable frequency. It was stated in the Council on 15th June, 1948, that during the session of 1947, out of 267 Advisory Reports given by the Council, 130 had been the subject of Urgent Discussion, and 70 of Immediate Discussion. The latter procedure is seldom asked for unless the committee has previously signified its agreement and is ready to report.

5. *Consideration of National Finance*

Additional constitutional restrictions curtail the powers of the

¹ For these proceedings, see V R , 11th, 12th and 22nd June, and V R (C R), 15th and 22nd June, 1948

Council in relation to national finance. The right to initiate expenditure is reserved to the Deputies of the National Assembly.¹ In consequence the Standing Orders of the Council lay down that any amendment to a financial bill which would raise the figure for a Chapter of Credits above the highest figure proposed for it in the Assembly by the Government or the Finance Committee (unless it merely entails the transference of a Credit from one Chapter to another) is out of order.² Within these limits a Senator may propose an amendment which would raise the figure above that in the bill as it comes before the Council. No mention is made in the Standing Orders of the proposal of such amendments to bills other than financial. A Senator cannot propose an increase of expenditure (or a diminution of receipts) in a separate bill of his own, since such a bill could not be received by the Assembly.³ No provision is made for the Finance Committee and other committees of the Council to have relations with the Court of Accounts, since the ordering of the national accounts is the responsibility of the Assembly alone.⁴

In one respect the Council has more scope than the Senate before it. The members of the latter were not entitled to make proposals for the raising of additional revenue. Nothing in the present Constitution forbids the Members of the Council from doing so, and it is considered that they may put forward such amendments provided that they introduce no completely new matter into the bill as received from the Assembly. This right has in fact already been exercised.

6. *Criticism of Administration*

The Constitution (art. 48) directly states that ministers have no responsibility to the Council of the Republic, but it also lays down (art. 53) that Ministers have access to both Chambers, and to their committees. Thus, while the Council has no right, nor power, to control the administration of the Government, it has facilities for criticising it.

(1) The General Committees.

The first and essential instrument for exercising such criticism is the Permanent Committee system. The Constitution,⁵ which

¹ Const., art 17

² S O (C R) 60

³ Const., art 14

⁴ Const., art 18

⁵ Art 15

implicitly recognises the existence of such a system in the case of the Assembly, makes no mention of the Committees of the Council. The use of Permanent Committees had, however, become so much a part of French Parliamentary tradition that it was inevitable that the Council should adopt it. Indeed, the first work of the Committee on Standing Orders was to arrange for the setting up of such a system. This consisted of nineteen committees, each with a sphere of interest corresponding exactly to that of one of the nineteen General Committees originally set up in the Assembly.¹ Indeed, the titles of the committees in the two Chambers differ only in very minor details. The Committees carry out the same task of watching and criticising the different branches of the administration as do those of the Assembly.

The suggestion for the regulation of the work of committees made by the Standing Orders Committee in the session of 1947 was adopted without opposition by the Council, except in one respect. This was the proposal to reproduce in the Council's Standing Orders that of the Assembly which allowed the granting of Powers of Enquiry to Committees. It was argued by some Members of the Council that to give such powers to a committee of the Council would in effect enable it to control the Executive and so contravene the Constitution.² The majority opposed this view, and the Standing Order (No. 30) was adopted. The right of the Council to accord Powers of Enquiry to its Committees later received implicit legal recognition.³ Standing Order 30 was afterwards amended with a view to giving the Council more control over the expenses which are bound to be incurred in such an inquiry and an opportunity to learn the result of it. A request for Powers of Enquiry must now state in detail the object of the projected enquiry and how long it will last. Before the request is put on the Orders of the Day for discussion, the Bureau is to be consulted about the expense involved. Finally a Committee which has obtained Powers of Enquiry must report its conclusion to the Council within two months of completing the enquiry—a means of control which the Assembly has not yet given itself.⁴ The number of Senators who may be appointed by a committee to make

¹ See p. 163. At the time of writing the Council had not set up a Committee on Fermented Liquors.

² See V.R. (C.R.), 28th January, 1948.

³ In clause 9 of Act No. 50-10, already referred to, which, in re-enacting with slight modification the provisions of the Act of 23rd March, 1914, "relating to evidence received by Parliamentary Committees of Enquiry", makes them specifically applicable to both Chambers.

⁴ Compare S.O. 31 and S.O. (C.R.) 30, as amended by Resolution No. 226 of 15th July, 1948.

such an enquiry has been fixed at four (whereas the Assembly, with its greater numbers and larger General Committees, has fixed the figure at seven).¹

(ii) Discussion of Financial Bills

The discussion of bills granting Credits is naturally used in the Council, as it is in the Assembly, as an opportunity to criticise the administration of the Ministries for which the expenditure is to be voted. Such discussion is subject to the limitations described in section (5) above.

(iii) Oral Questions with Debate

The second established procedural instrument for parliamentary criticism of the Executive is the Interpellation. Here, it seemed to the original Members of the Council, their Chamber clearly could not take to itself exactly the same procedure as that used by the Assembly. An Interpellation is a request, addressed to a Minister, for an explanation of his actions, to be followed by a vote favourable or hostile to the Minister and the Government of which he is a member. It is the possibility of the voting of an Order of the Day, with its implication of confidence or censure, which puts the sting into an Interpellation. But since the Government is not responsible to the Council, for that Chamber to express its confidence or censure would have no practical effect, and could be held to be contrary to the spirit of the Constitution. On the other hand, the Interpellation begins simply as a question. Since Ministers might appear and speak in the Council, they could clearly be questioned there. The Council, therefore, while giving itself the same procedure as the Assembly (in somewhat differently drafted Orders)² for Written and Oral Questions, added a third form—the Oral Question with Debate.

This procedure, in the form in which it was used for some two years, was in effect that of an Interpellation without an Order of the Day. Its extent was limited to the development by the Member asking the Question and the General Discussion, which ended without the Council giving any formal expression of opinion through a vote. Moreover, whereas the right to initiate an Interpellation is by tradition, and the present practice of the National Assembly, a purely personal one, a Question of this kind could only be presented if the questioner had the written

¹ G I (C R.) IX

² S O (C R.) 82-86

support of the president of a political group, or of the President of a committee acting with the committee's authority, or by at least thirty members of the Council.

The proposal to introduce this procedure was opposed in the Council, for reasons similar to those put forward against the Standing Orders relating to the granting of Powers of Enquiry to committees. It was argued that the Council, if it adopted it, would in fact be using the procedure of the Interpellation in disguise, and would be exceeding its powers and conflicting with the fundamental principles of the Constitution. The opposition was carried to a Vote by Open Ballot, in which the Council decided to adopt the procedure¹. It was found to fulfil a necessary function, as far as it went, and provided the means for a number of useful debates.

After the first re-election of the Council, the new majority took a bolder view. Among the provisions of the Resolution of 14th June, 1949, they introduced substantial amendments to Standing Orders 87-91. The original text was replaced by new wording, most of which was taken, *mutatis mutandis*, from the Standing Orders of the Assembly concerning Interpellations. It was argued that the presentation of an Interpellation, to be followed not only by a discussion but also by a vote, was an ancient and traditional right possessed by any parliamentary assembly, but that such a vote did not necessarily entail an expression of confidence in or censure of the Government. It was, therefore, perfectly constitutional for the Council to give such a vote. Since, however, it was thought that the expressions "Interpellation" and "Order of the Day" were connected in the public mind, through the traditions of the Third Republic, with the giving or withholding of confidence in the Government, it would be wiser for the Council not to use them. The phrase "Oral Question with Debate" was therefore retained, and the form of motion, with the presentation, discussion and voting of which the procedure was now to end, was called not an Order of the Day but a Proposal for a Resolution (*proposition de résolution*).²

The new procedure is that of the Interpellation in all but name. It begins with the presentation of the Oral Question, accompanied by a request for a debate—a proceeding which is now the unfettered right of each individual Senator. The Question itself may vary in form. It may be a simple and brief interrogation, or may be supported with arguments, and lengthened perhaps to four or five paragraphs or more.

¹ See V.R. (C.R.), 5th June, 1947.

² See V.R. (C.R.), 9th and 14th June, 1949.

The second stage of the procedure is the fixing of the date for the debate. This corresponds to the fixing of the date for the putting of an Interpellation, and is governed by rules taken from those used by the Assembly for that proceeding. In the event of the Council postponing the debate to an unspecified later occasion, the Senator who requested it retains the right to ask his Question as an ordinary Oral Question without debate.

The final stage is the debate itself. This corresponds to the actual discussion of an Interpellation. Its organisation by the Conference of Presidents is, however, compulsory—a requirement not imposed by the Assembly. The taking together (*jonction*) of two or more Questions on related matters, as the subject of the same debate, may be decided upon if the Council wishes. The debate opens with the development of the Question (or Questions) by the Member who presented it (or, by a substitute appointed either by the president of his political group, or by the Member himself). This is followed by the General Discussion. The originator of a Question has a right to reply to the Government. When the General Discussion has been closed, the President reads out the text of any Proposal for a Resolution which has been presented. Such a Proposal for a Resolution corresponds to the Order of the Day following an Interpellation.¹ It does not, however, need to take the same special form, since it consists, like any other Proposal for a Resolution, of an invitation or request to the Government to take action, and does not make any reference to the Orders of the Day of the Council. It is specifically exempted from the requirement, otherwise applicable to every Proposal for a Resolution, of being referred to the competent committee before discussion. A custom seems, however, to have developed under which the committee most closely concerned with the subject of the Question prepares and presents a Proposal for a Resolution, which is then given priority by the Council. Amendments may be presented to any Proposal for a Resolution before the Council, and the Committee concerned has no right to require that such amendments be referred to it. In all other respects, the discussion of such a Proposal for a Resolution is subject to precisely the same rules as is that of an Order of the Day in the Assembly.¹

¹ For a good example of the procedure of the Oral Question with Debate, and of various forms which the Question, the Proposal for a Resolution and the proceedings themselves may take, see the Debate on four Questions concerning the Government's agricultural policy in V R (C R) 27th and 28th December, and 29th December (1st sitting), 1949

(iv) Proposals for Resolutions

The normal use, however, of the Proposal for a Resolution (*proposition de résolution*) is as an independent proceeding, subject to much the same conditions and fulfilling the same purposes as in the Assembly. It does not, when so used, give to its proposer the same possibilities of initiating debate on a subject of his choice, since it must first go to a committee, and may only reach the Chamber in amended form, or may not be reported at all. On the other hand it had, before the recent changes of procedure just described, the advantage of ending with a vote, whereas the Oral Question with Debate did not. A tendency was certainly apparent in the earlier sessions of the Council to use this procedure as a substitute for that of the Interpellation.

Immediately a Proposal for a Resolution has been presented, it is printed, distributed and referred to a Committee of the Council. Thereafter the proceedings are similar to those on a bill, except that since the Resolution, when agreed to, will be the concern of the Council alone, it is naturally not transmitted to the Assembly. A Proposal for a Resolution may be subjected to Immediate Debate; and the request for this procedure, if it has not been agreed to by the committee, must be supported by at least thirty Senators. A Proposal for a Resolution which has been defeated may not be introduced again for three months. One upon which no decision has yet been given by the Council lapses at the end of the session, but may be taken up again in the first month of the following session.¹

¹ S.O (C.R.) 23

ADDENDUM

I. PROPOSED REVISION OF THE CONSTITUTION

AT THE time of going to press a proposal for constitutional revision has just passed through the first proceeding laid down under article 90 of the Constitution. This is the first occasion on which such a proposal has reached this stage. On 30th November, 1950, the Assembly agreed to a Resolution to the effect that articles 7, 9, 11, 12, 14, 20, 22, 45, 49, 50 and 52 should undergo revision. The Resolution was then transmitted to the Council. No indication was given in the Resolution of the form which the alterations to these articles are likely to take. It may be presumed, however, from the debate which proceeded the passing of the Resolution, that if and when a bill to give effect to the proposed revision is introduced, it will include, among other provisions, proposals to enable the Assembly, in order to save time, to refer certain bills for preliminary consideration in the Council, to make possible a certain amount of transaction and compromise between the two Chambers with regard to amendments proposed to bills by the Council (the present position being that the Assembly can only vote for or against such amendments), to remove the requirement of an absolute majority in the Assembly at Second Reading after the Council has decided by such a majority at its Vote on the Whole Bill, to restrict the force of Parliamentary Immunity to periods in which Parliament is sitting, to simplify the procedure for the Investiture of a Prime Minister designate, to remove the necessity of an absolute majority being obtained to validate votes on Investiture, Confidence and Censure; and to alter the provisions for the formation of an interim Government during a dissolution.

II. RECENT CHANGES IN THE PROCEDURE OF THE NATIONAL ASSEMBLY RELATING TO THE ARRANGEMENT OF BUSINESS AND TO URGENT DISCUSSION

Continued difficulties arising from the unprecedented pressure of business and the consequent tendency to "traffic blocks" (*embouteillage*) in its progress have led the National

Assembly to make two sets of important changes of procedure, by Resolution No 12677 of 17th October, 1950. These are summarised below.

1. *The Arrangement of Business (Amendments to S.O. 34 and 35)*

The Conference of Presidents is now to meet regularly once a week, not simply "when necessary". At the beginning of each session, and of each period of the session following a long adjournment, it is to draft the Orders of the Day for the next three weeks, and at each subsequent meeting thereafter those for the third week following (with the sole exception of the business for the single sitting in each week reserved for matters of Urgent Discussion, as described below). When the draft Orders come before the Assembly, no amendment may be moved to them if it entails a proposal to fix the date of an Interpellation or to enter on the Orders a matter the report concerning which has not been distributed, or concerns arbitration on a request for Urgent Discussion or the actual Urgent Discussion of a matter.

It is easy to see that in practice the Assembly may find it difficult to adhere strictly to these new rules—indeed, the best ordered of parliamentary bodies would find it a difficult task, even in a less eventful period of history, to fix its business three weeks ahead. Apart from this inherent difficulty, the Standing Orders themselves involve a number of others. It was, for example, explicitly stated in the debate on the new rules that they would not affect the rights of Deputies (under S.O. 90) to request the immediate fixing of the date for the discussion of an Interpellation. Again, as soon as the Question of Confidence is put, with the consequent "period of reflection" of one clear day, the programme is almost certain to be upset, as has already happened on at least one occasion. To take an extreme case, it is quite possible that a series of ministerial crises might render a whole three weeks programme null and void. It therefore seems probable that the new rules will be considerably modified in practice, if not by actual amendment. A tendency to revert more and more to the previous practice, described on pages 113-116, is, indeed, already apparent.

2. *Urgent Discussion (Amendments to S.O. 62, 63, 64, 65, and 66 bis).*

The new rules introduced on 9th December, 1948 (see p. 193) have not proved sufficient to deal with the problem of the excessive number of requests for Urgent Discussion. The procedure continued to be in practice the rule rather than the

exception On 9th and 16th May, 1950, for example, 48 requests for Urgent Discussion appeared on the Orders of the Day. The new rules have therefore themselves been amended In part, these amendments consist of a complete redrafting, which maintains the principles of the 1948 rules, but puts them in a simpler form One important adjustment made in those principles, however, is that when a committee fails to make a report on a request for Urgent Discussion, its silence is now to be taken as tacit opposition, instead of tacit consent. The failure of committees to report on requests which the Government on its side opposed had proved a frequent cause of requests for arbitration by the Assembly

In addition, however, the amended rules have introduced a fundamental change All the former provisions concerning the entry on the Orders of the Day of requests for arbitration and of actual Urgent Discussions have been annulled, and the task of initiating proposals for the consideration of these matters is now entrusted entirely to the Conference of Presidents. The Conference is to provide for one sitting a week to be reserved for such business. Any item which the Conference decides not to put down for consideration on four such sittings in succession lapses, though a fresh request for Urgent Discussion may be made in respect of the matter concerned Further, the Urgent Discussion on Second Reading of any matter so considered on First Reading and subsequently returned from the Council with amendments (see pages 198-9) has priority at such a sitting over any other matter, other than the continuation of an Urgent Discussion already begun Since, as described above, no amendment to the draft Orders of the Day prepared by the Conference may be moved if it entails a proposal to enter a request for arbitration or an Urgent Discussion, it is clear that the use of Urgent Discussion will be drastically limited Indeed, for the greater part of business Urgent Discussion may well become a slower method of progress than the normal procedure It is too early to say how the amended rules will be found to work in practice, but it is perhaps not rash to see in them another step towards giving the Government more effective control of the arrangement of business

GLOSSARY OF SOME FRENCH PARLIAMENTARY TERMS

FRENCH	ENGLISH
<i>(Une) Abstention</i>	(An) abstention (from voting)
<i>Adopter (un texte, etc)</i>	To agree to (a text, etc)
<i>L'Adoption (d'un texte, etc)</i>	The act of agreeing upon, the adoption of (a text, etc)
<i>Age, le Bureau d'</i>	The "Age Bureau" (which is called to office at the beginning of a session) (<i>See p. 102</i>)
<i>Age, le Doyen d'</i>	The oldest Member (who takes the Chair at the beginning of a session)
<i>L'Ajournement</i>	The Adjournment (of proceedings)
<i>L'Ajournement (de l'Assemblée, du Conseil), un Ajournement de séance</i>	The Adjournment of the sittings (of the Assembly or of the Council) over a fixed and extended period
<i>Un Amendement</i>	An amendment
<i>Les Annales (des Débats parlementaires)</i>	The Annals (of parliamentary debates)
<i>Une Annexe</i>	An appendix
<i>Appel Nominal</i>	Calling of a nominal roll
<i>Les Archives</i>	The Archives
<i>Un Article</i>	A clause, section, article
<i>Un Article additionnel</i>	A new clause
<i>Articles, le passage à la discussion des, le passage aux</i>	The stage of "Proceeding to the Discussion of the Clauses", or of "Proceeding to the Clauses" (following the General Discussion of a Bill)
<i>Assis et levé(s) (un vote par)</i>	(A Vote by) sitting down and standing up
<i>L'Auteur (d'une proposition de loi, d'un amendement, etc)</i>	The introducer (of a bill), the proposer (of an amendment), etc
<i>Un Avis</i>	An opinion, an advisory report (written or oral)
<i>Un Boîtier</i>	A "postman", a Member charged to vote by proxy for a number of others. (<i>See p. 142</i>)

<i>Le Budget</i>	The Budget, the Finance Bill (See p 208.)
<i>Le Budget d'un Ministère</i>	The provisions in the Budget relating to the expenditure of a particular Government Department, a Ministerial Budget
<i>Le Bulletin des Commissions</i>	The Summary of Committee Proceedings
<i>Le Bulletin de séance</i>	The Summary of Proceedings, (i.e in the Chamber)
<i>Un Bulletin de vote</i>	A voting-card
<i>Le Bureau</i>	(1) The Bureau, the officers of the Assembly (2) The President's desk, the Table (See p 101)
<i>Le Bureau d'Age</i>	The "Age Bureau" (which is called to office at the beginning of a session) (See p 102)
<i>Le Bureau définitif</i>	The Bureau as finally elected, the Regular Bureau
<i>Le Bureau d'une Commission</i>	The Bureau, the officers, of a committee.
<i>Les Bureaux</i>	The bureaux (sections of the Assembly) (See p 101)
<i>La Censure</i>	Censure (punishment for disorderliness imposed on a Member)
<i>La Censure avec exclusion temporaire</i>	Censure with temporary exclusion
<i>Censure, une Motion de</i>	A Motion of Censure (against the Government)
<i>Un Chapitre</i>	A Chapter (a division of an expenditure schedule in a financial bill)
<i>La Clôture</i>	(1) The closing, the ending by normal process, of a debate, sitting or session (2) The Closure
<i>Comité secret</i>	Secret Committee (i.e the whole Chamber meeting in secret)
<i>Un Commissaire</i>	A Member of a committee
<i>Un Commissaire du Gouvernement</i>	A Government Commissioner (a civil servant admitted to the Chamber to assist a minister)
<i>Une Commission de coordination</i>	A Committee of Co-ordination (formed of members of two or more General Committees)
<i>La Commission de Comptabiliste</i>	The Accounts Committee (set up in each Chamber to supervise its domestic accounts).

<i>Une Commission d'enquête</i>	A Committee of Enquiry
<i>La Commission des immunités parlementaires</i>	The Committee of Parliamentary Immunity
<i>Une Commission extra-parlementaire</i>	An extra-parliamentary Committee
<i>Une Commission générale</i>	A General Committee (one of the permanent committees regularly set up in both Chambers)
<i>La Commission saisie du fond</i>	The Main Committee (<i>See p 166</i>)
<i>Une Commission saisie pour avis</i>	An Advisory Committee (<i>See p 166</i>)
<i>Une Commission spéciale</i>	A Special Committee (set up for a particular purpose)
<i>Le Compte-rendu analytique</i>	The Analytical Report (in which speeches are given in précis only)
<i>Le Compte-rendu in extenso</i>	The Verbatim Report (of all proceedings and speeches in the Chamber)
<i>La Conférence des Présidents</i>	The Conference of Presidents (regular meeting of the President and Vice-Presidents of the Chamber, and the Presidents of the committees and political groups)
<i>Confiance, une question de</i>	A question of confidence
<i>Un Congé</i>	Leave of absence
<i>Consulter l'Assemblée (etc) sur la question de</i>	To call the Assembly (etc) to vote on the question of
<i>Un Contre-projet</i>	A Counter-Bill (an amendment in the form of an alternative text to the whole of a bill)
<i>Un Crédit</i>	A Credit, a sum of money voted for public expenditure
<i>Crédits, la spécialité des</i>	The appropriation of credits to specific purposes
<i>Le Cumul</i>	The holding of several similar positions at the same time
<i>Un Débat</i>	A debate, discussion
<i>Un Débat organisé</i>	An organised debate (in which the order of speakers is fixed by the Conference of Presidents)
<i>Débat, le Vote sans</i>	The procedure of Voting (sc a bill or motion) without Debate
<i>La Déchéance</i>	Forfeiture (by a Deputy or Senator of his seat)

<i>Délibération, une nouvelle</i>	A Fresh Deliberation (held on a bill by both Chambers at the request of the President of the Republic)
<i>Délibération, une seconde</i>	A Second Deliberation (held on a bill by either Chamber before the final vote)
<i>La Démission</i>	Resignation (e.g. by a Deputy of his seat)
<i>Le Dépôt</i>	The depositing, presentation (of of a document)
<i>Le Dépouillement</i>	The sorting and counting of the cards handed in at a Vote by Open Ballot
<i>Un Député</i>	A Deputy, Member of the National Assembly
<i>Une Discussion</i>	A discussion, debate, consideration
<i>Une Discussion d'urgence</i>	An Urgent Discussion, consideration of a bill under the special procedure of Urgent Discussion
<i>La Discussion Générale</i>	The General Discussion of a bill (the first proceeding on a bill in the Chamber itself)
<i>La Disjonction (d'un amendement, etc.)</i>	The Separation (of an amendment, etc. so that it may be referred back to the Committee).
<i>La Distribution</i>	The distribution, circulation (of documents)
<i>La Dissolution</i>	Dissolution (of the Assembly)
<i>La Division</i>	Division (of a complicated text into two or more parts, each of which is to be voted upon separately)
<i>Le Doyen d'Age</i>	The oldest Member (who takes the Chair at the beginning of a new session)
<i>L'Émargement</i>	The marking off of the names of those voting in a Vote by Open Ballot at the Tribune or in a Ballot for a nomination
<i>Une Enquête</i>	An Enquiry (carried out by a committee)
<i>Enquête, Pouvoirs d'</i>	Powers of Enquiry (conferred upon a committee)
<i>L'Ensemble, le Vote sur</i>	The Vote on the Whole Bill (the final proceeding on a bill in either Chamber)
<i>L'Exclusion</i>	Exclusion from the Palace (as a result of the infliction of Censure with Temporary Exclusion)

<i>Une Explication de Vote</i>	An explanation of vote (a limited speech which alone is allowed at certain stages of procedure)
<i>Un Fait délictueux</i>	A punishable act, a crime or misdemeanour against ordinary law
<i>Un Fait personnel</i>	A Personal Incident (giving rise to a request for the right to speak)
<i>Le Fauteuil</i>	The President's Chair (in either Chamber)
<i>Un Fauteuil</i>	A Member's chair, place (in the Council only)
<i>La Feuilleton</i>	The Order Paper
<i>La Feuilleton des pétitions</i>	The Order Book of Petitions
<i>Le Gouvernement</i>	The Government
<i>Un Groupe politique</i>	A political group, a political party as organised within the Assembly or Council
<i>Un Huissier</i>	An usher, "badge messenger"
<i>(L') Immunité (parlementaire)</i>	(Parliamentary) immunity
<i>Un Impôt</i>	A tax, duty
<i>Incompatible</i>	Incompatible (See next entry)
<i>(Un) incompatibilité</i>	A circumstance producing incompatibility (i.e. between the holding of a certain office and the exercise of an elective mandate), incompatibility
<i>Inéligible</i>	Ineligible (sc to be elected)
<i>Un Inéligibilité</i>	A circumstance making a person ineligible (sc to be elected), ineligibility
<i>L'Initiative (des lois)</i>	The right to introduce legislation into Parliament
<i>L'Inscription</i>	The entering of a Member's name in the list of those wishing to speak.
<i>L'Inscription à l'ordre du jour</i>	The entering of a matter upon the Orders of the Day
<i>Inscription au procès-verbal, le rappel à l'ordre avec</i>	The Call to Order recorded on the Minutes (a warning for disorderliness when given by the President to the same Member for the second time in the same sitting)
<i>Inscrire</i>	To enter (on the list of those wishing to speak, or on the Orders of the Day)

<i>S'Inscrire</i>	To enter one's name (on the list of those wishing to speak)
<i>Une Interpellation</i>	An Interpellation (<i>See p 235</i>)
<i>L'Inviolabilité (parlementaire)</i>	(Parliamentary) inviolability
<i>Irrecevable</i>	Not admissible, out of order, (of a document)
<i>Irrecevabilité</i>	Inadmissibility
<i>La Jonction (des interpellations)</i>	The taking together (of two or more Interpellations)
<i>Le Journal Officiel</i>	The Official Journal (the daily gazette of official information published by the French Government)
<i>Lecture, la première</i>	First Reading (all the proceedings on a bill from its introduction into the Assembly until it is sent to the Council)
<i>Lecture, la seconde (deuxième)</i>	Second Reading (all the proceedings in the Assembly on a bill returned from the Council with amendments)
<i>La Loi</i>	The law (in general)
<i>Une Loi</i>	A law, an act
<i>Le Loi de finances</i>	The Finance Bill or Act
<i>Une Lettre rectificative</i>	A Letter of Rectification (from the Government, informing the Assembly of a drafting modification to the text of a bill)
<i>Mains levées (un vote a)</i>	(A Vote by) Raising of Hands
<i>La Majorité absolue</i>	The absolute majority, i.e. the half plus one or more (of all Members, or of all votes cast)
<i>La Majorité relative</i>	The relative majority, i.e. the greatest number of votes given for a single candidate, but forming not more than half the total of votes cast
<i>Un Mandat</i>	A mandate
<i>Mettre aux voix</i>	To put to the vote
<i>Un Ministère</i>	A ministry, Government department
<i>Un Ministre</i>	A minister
<i>Une Motion</i>	A proposal, motion (<i>See p 132</i>)
<i>Une Motion d'adjournement</i>	A motion to adjourn debate (<i>See p 135</i>)

<i>Une Motion de censure</i>	A Motion of Censure (against the Government)
<i>Une Motion d'investiture</i>	A Motion of Investiture (of a Prime Minister designate)
<i>Une Motion d'ordre</i>	A point of order (connected with the order of business)
<i>Une Motion incidente</i>	An Incidental Motion
<i>Une Motion préjudicelle</i>	A Preliminary Motion
<i>Une Nouvelle délibération</i>	A Fresh Deliberation (on a bill by both Chambers at the request of the President of the Republic)
<i>Un Orateur</i>	A speaker, a Member making a speech
<i>L'Ordre</i>	Order (in debate)
<i>L'Ordre du jour</i>	The Orders of the Day, (i.e the agenda of the Chamber or of a Committee)
<i>Un Ordre du jour</i>	An "Order of the Day" (a form of motion moved during discussion of an Interpellation)
<i>L'Ordre, le rappel à</i>	The Call to Order (a warning given to a Member by the President for disorderliness)
<i>L'Ordre, le rappel à, avec inscription au procès-verbal</i>	The Call to Order recorded on the Minutes (when given to the same Member for the second time in the same sitting)
<i>L'Organisation d'un débat</i>	The organisation of a debate (by the Conference of Presidents, which fixes the order of speakers)
<i>La Parole</i>	The right to speak
<i>Le Passage à la discussion des articles, aux articles</i>	The stage of "Proceeding to the Discussion of the Clauses", or of "Proceeding to the Clauses" (following the General Discussion of a bill)
<i>Une Peine disciplinaire</i>	A disciplinary sanction (imposed by the President or by the Chamber)
<i>Une Pétition</i>	A Petition (to one of the Chambers)
<i>Le Pointage</i>	Checking (of votes cast in a Ballot)
<i>La Police de l'Assemblée, du Conseil</i>	The detachment of the Republican Guard which forms the police of the Assembly or of the Council (as the case may be)
<i>Poursuites, une demande en autorisation de</i>	A request for authorisation to prosecute (a Deputy or Senator)

<i>Les Pouvoirs (d'un Député, d'un Sénateur)</i>	The electoral credentials (of a Deputy or Senator)
<i>Rouvoirs d'Enquête</i>	Powers of Enquiry (conferred upon a committee)
<i>Le Président</i>	The President (of the Republic, of either Chamber, or of a committee, <i>bureau</i> or political group)
<i>Le Président du Conseil</i>	The President of the Council, (1 or the Prime Minister)
<i>La Priorité</i>	Priority
<i>La Prise en considération</i>	The act of, or question for, taking into consideration (a text or proposal)
<i>Le Procès-verbal</i>	The Minutes of the Assembly or Council, of a committee or of a <i>bureau</i>
<i>Un Procès-verbal d'élection</i>	A report on an election (by the committee responsible for counting the votes in the constituency concerned)
<i>Procuration, le vote par</i>	Voting by proxy
<i>Le Procureur général</i>	The Public Prosecutor
<i>Un Projet de loi</i>	A Government bill
<i>La Promulgation</i>	Promulgation as law (of an act)
<i>Une Proposition de loi</i>	A private Member's bill
<i>Une Proposition de résolution</i>	A Proposal for a Resolution, a motion
<i>Une Protestation électorale</i>	An electoral protest (protest concerning the proceedings at or circumstances of an election)
<i>Un Questeur</i>	A <i>Questeur</i> , one of the three Members of the Bureau specially responsible for the administrative and financial arrangements of their Chamber
<i>Une Question; la question</i>	(1) A matter, subject, question, the subject of debate (2) A question addressed to a minister
<i>Un Question écrite</i>	A written question (to a minister), question for written answer
<i>Une Question orale</i>	An oral question (to a minister), question for oral answer.
<i>La Question préalable</i>	The previous question.
<i>Le Quorum</i>	The quorum

<i>Le Rappel à l'Ordre</i>	The Call to Order (a warning given to a Member by the President for disorderliness)
<i>Le Rappel à l'Ordre avec inscription au procès-verbal</i>	The Call to Order recorded on the Minutes (when given to the same Member for the second time in the same sitting)
<i>Un Rappel au règlement</i>	A Recall to the Standing Orders (See p 149)
<i>Rappeler (un orateur) à la question</i>	To recall (a speaker) to the subject, call to order for irrelevance
<i>Un Rapport</i>	A report (of a committee or <i>bureau</i>)
<i>Un Rapport supplémentaire</i>	A supplementary report
<i>Le Rapporteur du fond</i>	The Reporter of the Main Committee.
<i>Le Rapporteur général</i>	The General Reporter (of the Finance Committee)
<i>Le Rapporteur pour avis</i>	The Reporter of an Advisory Committee
<i>Le Reappel (nominal)</i>	The calling of the roll a second time (in a Vote by Open Ballot at the Tribune)
<i>Les Recettes de l' Etat</i>	The national revenue
<i>Recettes, la non-affectation des</i>	The non-assignment of revenue (i.e the paying of all revenue into a central fund)
<i>Rectificative, une lettre</i>	A Letter of Rectification (from the Government, informing the Assembly of a drafting modification to the text of a bill)
<i>Receivable</i>	Admissible, in order (of a document).
<i>La Recevabilité</i>	Admissibility.
<i>Un Règlement; le Règlement</i>	A set of rules or regulations, the Standing Orders
<i>Le Rejet</i>	The rejection (of a text or proposal)
<i>Le Renvoi</i>	<ul style="list-style-type: none"> (1) The reference or reference-back (to a committee or other body, of a bill, amendment, clause or chapter) (2) The postponement (of proceedings)
<i>Le Renvoi pour avis</i>	The reference back (to a committee) for an advisory report (of an amendment, etc)
<i>La Réponse d'un Ministre</i>	A minister's answer (to a question, or to a petition)
<i>La Reprise</i>	The taking-up again (e.g of a rejected bill, or of a report presented in a former Legislature).

La Réserve

The reservation, withholding from consideration (sc of an amendment, clause or chapter, till a later moment in the proceedings on the bill)

Réserver

To reserve, withhold from consideration

Le Retrait

The withdrawal (of a bill, ~~amendment~~, etc)

La Salle des séances

The hall in which sittings are held, the Chamber

Sans débat, le vote

The procedure of Voting (sc a bill or motion) without Debate

Un Scrutateur

A scrutineer (at a Ballot for a nomination)

Un Scrutin

(1) A poll, voting at a national or local election
 (2) A ballot, a Vote by Ballot (in one of the Chambers)

Le Scrutin d'arrondissement

Voting by district

Le Scrutin de liste

Voting for a list of candidates

Un Scrutin public

A Vote by Open Ballot

Une Scrutin public à la Tribune

A Vote by Open Ballot at the Tribune

Un Scrutin public dans les salles voisines de la Salle des séances

A Vote by Open Ballot held in the rooms adjoining the Chamber (in the case of nominations)

Un Scrutin secret

A vote by Secret Ballot

Le Scrutin uninominal

Voting for a single candidate

Une Séance

A sitting

Une Séance du matin, de l'après-midi, du soir

A morning, afternoon, evening sitting

Une Séance publique

A sitting in public

Séance, un jour de

A sitting day

Séances, la Salle des

The hall in which sittings are held, the Chamber

Un Secrétaire

A Secretary (a member of the Bureau with certain special functions connected with débates)

Le Secrétaire d'un bureau, d'une commission

The Secretary of a *bureau*, of a committee

Le Secrétaire-Général

The Secretary-General, the Clerk (of either Chamber)

Un Sénateur

A Senator, Member of the Council of the Republic

<i>Les Services de l'Assemblée ,du Conseil</i>	The permanent officials of the Assembly, of the Council.
<i>Une Session</i>	A session
<i>La Session annuelle, ordinaire</i>	The ordinary annual session required by the Constitution
<i>Une Session extraordinaire</i>	An extraordinary session (outside the period of the ordinary annual session)
<i>Le Suffrage</i>	Suffrage, franchise
<i>Un Suffrage</i>	A vote
<i>Un Suppléant</i>	A substitute
<i>La Suspension</i>	Suspension (of a sitting)
<i>Le Tirage au sort</i>	Drawing of lots
<i>Tirer au sort</i>	To select by drawing lots
<i>La Tribune</i>	The Tribune (the platform on which the President and other officers and officials sit)
<i>Urgence, une discussion d'</i>	An Urgent Discussion, consideration of a bill under the special procedure of Urgent Discussion
<i>Une Urne</i>	An urn (in which voting-cards are placed)
<i>La Vérification des pouvoirs</i>	The verification of the credentials (of Members)
<i>Un Vice-Président</i>	A Vice-President (of either Chamber, or of a committee)
<i>Le Virement</i>	The transfer (of money from one chapter to another within a ministerial budget)
<i>Le Vote, un Vote</i>	Voting, a Vote (held by either Chamber, or by a committee or bureau), a "division"
<i>Le Vote par procuration</i>	Voting by proxy
<i>Le Vote sans débat</i>	The procedure of Voting (sc a bill or motion) without Debate
<i>Vote, une explication de</i>	An explanation of vote (a limited speech which alone is allowed at certain stages of procedure).

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